
MORTGAGE AND SECURITY AGREEMENT

STONE CREST APARTMENTS ALABAMA, LLC,

as Mortgagor

to

RAIT PARTNERSHIP, L.P.,

as Mortgagee

Dated Effective as of February 15, 2007

PREPARED BY AND UPON RECORDATION RETURN TO:

Ledgewood, a professional corporation
1900 Market Street, Suite 750
Philadelphia, Pennsylvania 19103
Attention: Brian L. Murland, Esquire

THIS INSTRUMENT AFFECTS REAL AND PERSONAL PROPERTY SITUATED IN THE COUNTY OF SHELBY, STATE OF ALABAMA, KNOWN AS "STONECREST AT DOUBLE OAK MOUNTAIN" LOCATED AT THE STREET ADDRESS OF ONE STONECREST DRIVE. THIS INSTRUMENT IS TO BE FILED AND INDEXED IN THE LAND RECORDS AND IS ALSO TO BE INDEXED IN THE INDEX OF FIXTURE FINANCING STATEMENTS UNDER THE NAMES OF MORTGAGOR, AS "DEBTOR" AND MORTGAGEE, AS "SECURED PARTY". THIS INSTRUMENT SERVES AS A FINANCING STATEMENT FILED AS A FIXTURE FILING PURSUANT TO SECTION 7-9A-502(C), CODE OF ALABAMA 1975, AS AMENDED.

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (this "Mortgage") is made effective as of this 15th day of February, 2007, from STONE CREST APARTMENTS ALABAMA, LLC, a Delaware limited liability company ("Mortgagor"), with offices at 12100 Wilshire Boulevard, Suite 250, Los Angeles, California 90025, Attn: Richard J. Nathan, President, to RAIT PARTNERSHIP, L.P., a Delaware limited partnership (together with its successors and assigns, the "Mortgagee"), with offices at 1818 Market Street, 28th Floor, Philadelphia, Pennsylvania 19103.

WITNESSETH:

This Mortgage is being given to secure the payment of the full and punctual payment of the Debt (as defined in Section 45 below) and which includes but is not limited to all of the obligations of Mortgagor under one or more promissory notes of even date herewith from Mortgagor to Mortgagee in the aggregate original principal amount of TWENTY-FIVE MILLION TWO HUNDRED FIFTEEN THOUSAND EIGHT HUNDRED FORTY AND 00/100 DOLLARS (\$25,215,840.00) and the performance of and compliance with all of the terms, covenants, stipulations and agreements contained in the Note and this Mortgage, all in the manner and according to the terms and conditions as further detailed in that certain Loan and Security Agreement of even date herewith between Mortgagor and Mortgagee (the "Loan Agreement"), all of which are incorporated herein by reference. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

NOW, THEREFORE, in consideration of the indebtedness, and as security for payment to Mortgagee of the Debt, including future advances, and as further security for the full and faithful performance by Mortgagor of its obligations under the Note, according to the terms and conditions, and for performance of the agreements, conditions, covenants, provisions and stipulations contained herein and therein, and in certain other agreements and instruments made and given by Mortgagor to Mortgagee in connection therewith (the Note, and all other agreements and instruments executed in connection with the loan evidenced thereby, as any of the foregoing may be amended, restated, modified and/or replaced from time to time, being sometimes hereinafter collectively referred to as the "Loan Documents"), Mortgagor has granted, bargained, sold, conveyed, aliened, enfeoffed, released, confirmed and mortgaged, and by these presents DOES HEREBY GRANT, BARGAIN, SELL, CONVEY, ALIEN, ENFEOFF, RELEASE, CONFIRM AND MORTGAGE UNTO MORTGAGEE, ITS SUCCESSORS AND ASSIGNS, AND HEREBY GRANTS UNTO MORTGAGEE, ITS SUCCESSORS AND ASSIGNS A SECURITY INTEREST, with power of sale, in all of Mortgagor's estate, right, title and interest, now owned or hereafter acquired, in, to and under any and all of the following described property, whether now owned or hereafter acquired (collectively, the "Mortgaged Property"):

(a) All that certain real property situated at One Stonecrest Drive in the City of Birmingham, County of Shelby, State of Alabama, as more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Land"); and

(b) All easements, rights-of-way, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, riparian rights, and all estates, rights, titles, interests, privileges, tenements, hereditaments, appurtenances, all rights, liabilities and privileges thereof whatsoever in any way belonging, relating or appertaining to any of the Land or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all of the estates, rights, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Mortgagor, of, in and to the same; and

(c) All structures, buildings and other improvements erected or hereafter erected upon the Land (the "Improvements"), and all leases, rents, issues and profits arising therefrom; and

(d) All fixtures, appliances, machinery, furniture and equipment of any nature whatsoever, and other articles of personal property now or at any time hereafter installed in, attached to or situated in or upon the Land or any Improvements now or hereafter erected on, upon, under or forming a part of the Land, or used or intended to be used in connection with the Land, or in the operation of any Improvements now or hereafter erected thereon, or in the operation or maintenance of any such Improvements, plant or business situate thereon, whether or not the personal property is or shall be affixed thereto; and

(e) All building materials, fixtures, building machinery and building equipment delivered on site to the Land during the course of, or in connection with, the construction of, or reconstruction of, or remodeling of any Improvements from time to time during the term hereof; and

(f) Any and all tenements, hereditaments and appurtenances belonging to the Land or any part thereof hereby mortgaged or intended so to be, or in any way appertaining thereto, and all streets, alleys, passages, ways, water courses, and all easements and covenants now existing or hereafter created for the benefit of the Mortgagor or any subsequent owner or tenant of the Land over ground adjoining the Land and all rights to enforce the maintenance thereof, and all other rights, liberties and privileges of whatsoever kind or character, and the reversions and remainders, income, rents, issues and profits arising therefrom, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law or in equity, of the Mortgagor in and to the Land or any part thereof; and

(g) all of the estate, right, title and interest of Mortgagor in and to (1) all of the rents, revenues, issues, profits, proceeds, receipts, income, accounts and other receivables arising out of or from the Land and Improvements located thereon, including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (2) all leases and subleases (collectively, "Leases"), now or hereafter existing, of all or any portion of the foregoing interests described in sections (a) through (f), together with all guaranties of any of such Leases and all security deposits delivered by tenants thereunder, whether in cash or letter of

credit; (3) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (4) all tenant improvements and fixtures located on the Land and Improvements; and

(h) All water, ditches, wells, reservoirs and drains and all water, ditch, well, reservoir and drainage rights which are appurtenant to, located on, under or above or used in connection with the Land or the Improvements, or any part thereof, whether now existing or hereafter created or acquired; and

(i) All minerals, crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above the Land; and

(j) All cash funds, deposit accounts and other rights and evidence of rights to cash, now or hereafter created or held by Mortgagee pursuant to this Mortgage or any other of the Loan Documents, including, without limitation, all funds now or hereafter on deposit in the Reserves; and

(k) All contracts and agreements now or hereafter entered into covering any part of the Land or the Improvements (collectively, the "Contracts") and all revenue, income and other benefits thereof, including, without limitation, management agreements, service contracts, maintenance contracts, equipment leases, personal property leases and any contracts or documents relating to construction on any part of the Land or the Improvements (including plans, drawings, surveys, tests, reports, bonds and governmental approvals) or to the management or operation of any part of the Land or the Improvements; and

(l) All present and future monetary deposits given to any public or private utility with respect to utility services furnished to any part of the Land or the Improvements; and

(m) All present and future funds, accounts, instruments, accounts receivable, documents, causes of action, claims, general intangibles (including without limitation, trademarks, trade names, servicemarks and symbols now or hereafter used in connection with any part of the Land or the Improvements, all names by which the Land or the Improvements may be operated or known, all rights to carry on business under such names, and all rights, interest and privileges which Mortgagor has or may have as developer or declarant under any covenants, restrictions or declarations now or hereafter relating to the Land or the Improvements) and all notes or chattel paper now or hereafter arising from or by virtue of any transactions related to the Land or the Improvements (collectively, the "General Intangibles"); and

(n) All water taps, sewer taps, certificates of occupancy, permits, licenses, franchises, certificates, consents, approvals and other rights and privileges now or hereafter obtained in connection with the Land or the Improvements and all present and future warranties and guaranties relating to the Improvements or to any equipment, fixtures, furniture, furnishings, personal property or components of any of the foregoing now or hereafter located or installed on the Land or the Improvements; and

(o) All right, title and interest of Mortgagor in any insurance policies or binders now or hereafter relating to the Mortgaged Property including any unearned premiums thereon; and

(p) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing interests into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards.

All of the Land, Improvements, fixtures, machinery, furniture, equipment, tenements, hereditaments and appurtenances, leases, rents and proceeds and other property interests, including all of the foregoing, are sometimes collectively referred to herein as the "Mortgaged Property".

TO HAVE AND TO HOLD the Mortgaged Property hereby conveyed or mentioned and intended so to be, unto Mortgagee, in fee simple, forever.

PROVIDED, HOWEVER, that if Mortgagor shall promptly pay the Debt and shall promptly perform all of Mortgagor's obligations under the Loan Documents, then, upon such full payment and performance, then this Mortgage shall cease, determine, and be void but shall otherwise remain in force and effect.

MORTGAGOR REPRESENTS, COVENANTS and WARRANTIES to and with Mortgagee that until the Debt secured hereby is fully repaid:

1. Warranty of Title. Mortgagor warrants that it possesses good and marketable title to an indefeasible fee simple estate in the Mortgaged Property; that Mortgagor has full power and lawful authority to subject the Mortgaged Property to the lien of this Mortgage in the manner and form herein provided; that it shall be lawful for Mortgagee at all times, to enter upon, hold, occupy and enjoy the Mortgaged Property and every part thereof; and that the Mortgaged Property is free from all liens and encumbrances subject only to those title exceptions listed in the Mortgagee title insurance policy approved by and issued to Mortgagee, insuring the first priority of the lien of this Mortgage.

2. Payment and Performance. Mortgagor shall pay to Mortgagee, in accordance with the terms of the Note and this Mortgage, the principal and interest, and other sums therein set forth; shall perform and comply with all the agreements, conditions, covenants, provisions and stipulations of the Loan Documents and this Mortgage; and shall timely perform all of its material obligations and duties as landlord under any Lease of all or any portion of the Mortgaged Property now or hereafter in effect.

3. Maintenance of Mortgaged Property. Mortgagor shall keep and maintain or cause to be kept and maintained all Improvements now or at any time hereafter erected on the Mortgaged Property and the sidewalks and curbs abutting them, in good order and condition and in a rentable and tenantable state of repair, and will make or cause to be made, as and when

necessary for such purpose, all repairs, renewals and replacements, structural and nonstructural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen. Mortgagor shall abstain from and shall not permit the commission of waste in or about the Mortgaged Property; shall not remove or demolish, or materially alter the structural character of, any building erected at any time on or constituting a part of the Mortgaged Property or materially alter the exterior of the building, without the prior written consent of Mortgagee; and shall not permit the Mortgaged Property to become vacant, deserted or abandoned. Mortgagor further covenants and agrees to maintain in good condition on the Mortgaged Property all items of inventory, equipment and any other personal property necessary for or used in the maintenance and operation of the Mortgaged Property, free of any security interest (except a security interest in favor of Mortgagee), and, upon request, to furnish to Mortgagee financing statements, continuation certificates and such other documents necessary to perfect and maintain in favor of Mortgagee a security interest in such personal property.

4. Insurance.

(a) Mortgagor shall keep the Mortgaged Property continuously insured, in accordance with the requirements of Section 3(b) of the Loan Agreement.

(b) In the event of loss, Mortgagor will give immediate notice thereof to Mortgagee, and Mortgagee may make proof of loss if not made promptly by Mortgagor. Each insurance company concerned is hereby authorized and directed to make payment under such insurance, including return of unearned premiums, directly to Mortgagee instead of to Mortgagor and Mortgagee jointly, and Mortgagor appoints Mortgagee, irrevocably, as Mortgagor's attorney-in-fact to endorse any draft therefor. The proceeds of any such insurance shall be applied in accordance with the provisions of Section 13 and Section 14 of the Loan Agreement. No application of insurance proceeds to the payment of the Debt shall postpone any of the current installments of principal or interest becoming due under the Note until the Debt has been paid in full.

(c) Such policies of insurance and all renewals thereof are hereby assigned to Mortgagee as additional security for payment of the indebtedness hereby secured and Mortgagor hereby agrees that any values available thereunder upon cancellation or termination of any of said policies or renewals, whether in the form of return of premiums or otherwise, shall be payable to Mortgagee as assignee thereof. If Mortgagee becomes the owner of the Mortgaged Property or any part thereof by foreclosure or otherwise, such policies, including all right, title and interest of Mortgagor thereunder, shall become the absolute property of Mortgagee. In addition, Mortgagor will deliver the originals or certified copies of all such policies to Mortgagee, and, not less than thirty (30) days prior to the expiration date of each such policy, will deliver to Mortgagee a renewal policy or policies (or certified copies of such policies) or certificate of insurance marked "premium paid" or accompanied by other evidence of payment satisfactory to Mortgagee. Mortgagor shall not change the present use of any portion of the Mortgaged Property in any manner or permit any condition to exist on the Mortgaged Property which would permit an insurer to cancel or increase the premium for any insurance policy or invalidate such policy in whole or in part. Mortgagor shall not take out separate insurance concurrent in form or

contributing in the event of loss with that required to be maintained under this section unless Mortgagee is included thereon as a named insured with loss payable to Mortgagee under a non-contributory Mortgagee clause satisfactory to Mortgagee. Mortgagor shall immediately notify Mortgagee whenever any such separate insurance is taken out, specifying the insurer thereunder and full particulars as to the policies evidencing the same.

5. Taxes and Other Charges. Mortgagor shall pay before they are due and payable and before any interest, charge or penalty is due thereon, without any deduction, defalcation or abatement, all taxes, assessments, levies, liabilities, obligations, encumbrances, water and sewer rents and all other charges or claims of every nature and kind which may be imposed, suffered, placed, assessed, levied, or filed at any time against Mortgagor (other than income taxes of Mortgagor), the Mortgaged Property or any part thereof or against the interest of Mortgagee therein, or with respect to the Note or Mortgage and/or the ownership of either thereof by Mortgagee, or which by any present or future law may have priority over the indebtedness secured hereby either in lien or in distribution out of the proceeds of any judicial sale, without regard to any law heretofore or hereafter to be enacted imposing payment of the whole or of any part upon Mortgagee; and insofar as any such tax, assessment, levy, liability, obligation or encumbrance is of record, the same shall be promptly satisfied and discharged of record and the original official document (such as, for instance, the tax receipt or the satisfaction paper officially endorsed or certified) shall be placed in the hands of Mortgagee not later than five (5) days prior to the due date thereof. Provided, however, that if, pursuant to this Mortgage or otherwise, Mortgagor shall have deposited with Mortgagee before the due date thereof sums sufficient to pay any such taxes, assessments, levies, water and sewer rents, charges or claims, and no Event of Default has occurred, they shall be paid by Mortgagee from the appropriate reserve (to the extent sufficient funds exist therein); and provided further, that if Mortgagor is not in default hereunder and in good faith and by appropriate legal action shall contest the validity of any such item, or the amount thereof, and shall have established on its books or by deposit of cash with Mortgagee, as Mortgagee may elect, a reserve for the payment thereof in such amount as Mortgagee may require (including any interest and penalties which may be payable in connection therewith), then Mortgagor shall not be required to pay the item or to produce the required receipts, while the reserve is maintained and so long as the contest operates to prevent collection, and is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to Mortgagor. Further, Mortgagor will not apply for or claim any deduction, by reason of this Mortgage, from the taxable value of all or any part of the Mortgaged Property. It is expressly agreed that no credit shall be claimed or allowed on the interest payable on the Note because of any taxes or other charges paid.

6. Installments for Insurance, Taxes and Other Charges. Without limiting the effect of Sections 4 and 5 hereof, but subject to the terms of Section 5(b) of the Loan Agreement, Mortgagee may, in its sole discretion, require Mortgagor to pay to Mortgagee (or to such other entity as Mortgagee shall designate), monthly with the monthly installments of principal and interest, an amount equal to one-twelfth (1/12) of the annual premiums for the insurance policies referred to hereinabove and the annual real estate taxes, water and sewer rents, any special assessments, charges or claims and any other lien which at any time may be or become a lien upon the Mortgaged Property prior to the lien of this Mortgage; and on demand from time to time

Mortgagor shall pay to Mortgagee any additional sums necessary to pay the premiums and other items, all as estimated by Mortgagee. The amounts so paid shall be security for the premiums and other items and shall be used in payment thereof if Mortgagor is not otherwise in default hereunder. No amount so paid shall be deemed to be trust funds but may be commingled with general funds of Mortgagee and no interest shall be payable thereon. If, pursuant to any provision of this Mortgage, or the Note, the whole amount of the unpaid principal debt becomes due and payable, Mortgagee shall have the right, in its sole and absolute discretion, to apply any amount so held, in such order and in such amounts as Mortgagee may elect, against: (a) any amounts payable by Mortgagor hereunder or under the Loan Documents, and/or (b) accrued and unpaid interest under the Note, and/or (c) the outstanding principal balance of the Note. At Mortgagee's option, Mortgagee from time to time may waive, and after any such waiver may reinstate, the provisions of this section requiring the monthly payments. Mortgagor will furnish to Mortgagee bills and other requests for payment in sufficient time to enable Mortgagee to pay such taxes, assessments, levies, charges and fees as provided above.

7. Valid Existence and Taxes. Mortgagor shall keep in effect its existence and rights under the laws of the state of its organization and its right to own property and transact business in the state in which the Mortgaged Property is situated during the term hereof. For all periods during which title to the Mortgaged Property or any part thereof shall be held by any party subject to corporate taxes or taxes similar to corporate taxes, Mortgagor shall file returns for such taxes with the proper authorities, bureaus or departments and it shall pay, when due and payable and before interest or penalties are due thereon, all taxes owing by Mortgagor to the United States, to such state of organization and to the state in which the Mortgaged Property is situated and any political subdivision thereof, and shall produce to Mortgagee receipts showing payment of any and all such taxes, charges or assessments prior to the last dates upon which such taxes, charges or assessments are payable without interest or penalty charges, and within ten (10) days of receipt thereof all settlements, notices of deficiency or over assessment and any other notices pertaining to Mortgagor's tax liability which may be issued by the United States, such state of organization, the state in which the Mortgaged Property is situated and any political subdivision thereof.

8. Documentary and Other Stamps. If at any time the United States, the state in which the Mortgaged Property is located or any political subdivision thereof, or any department or bureau of any of the foregoing, shall require documentary, revenue or other stamps on the Note secured hereby or this Mortgage, Mortgagor on demand shall pay for them with any interest or penalties payable thereon.

9. Future Taxes. If hereafter any law or ordinance shall be adopted imposing a tax directly or indirectly on Mortgagee with respect to the Mortgaged Property, the value of Mortgagor's equity therein, or the Debt and secured by this Mortgage, Mortgagee, at its election, shall have the right at any time after the tax has been imposed to give Mortgagor written notice declaring that the principal debt, with interest and other appropriate charges, shall be due on a specified date not less than sixty (60) days thereafter which notice shall specify the nature of the tax which is the basis for acceleration; provided, however, that such election shall be ineffective if, prior to the specified date, Mortgagor lawfully pays the tax (in addition to all other payments

required hereunder) and agrees to pay the tax whenever it becomes due and payable thereafter, which agreement shall then constitute a part of this Mortgage.

10. Security Agreement.

(a) This Mortgage constitutes a security agreement within the meaning of the Uniform Commercial Code as enacted this date in the State of Alabama (the "Uniform Commercial Code"). Mortgagor hereby grants to Mortgagee a security interest in all of Mortgagor's property included in the Mortgaged Property which might otherwise be deemed "personal property", including, but not limited to, all furniture, furnishings, fixtures, equipment, machinery, leases, rents, issues, profits, contract rights, accounts, general intangibles and all other property used or useable in connection with the Mortgaged Property, whether now owned or hereafter acquired by Mortgagor, and all substitutions, accretions and component parts, replacements thereof, and additions thereto and all cash and non-cash proceeds thereof.

(b) Mortgagor shall authorize, deliver, file and refile any financing statements, continuation statements, or other security agreements Mortgagee may require from time to time to confirm the lien of this Mortgage with respect to such property. Following the occurrence of an Event of Default, Mortgagor hereby irrevocably appoints Mortgagee attorney-in-fact for Mortgagor to execute, deliver and file such instruments for and on behalf of Mortgagor. Mortgagor also authorizes Mortgagee to file financing statements or continuation statements without Mortgagor's signature, in accordance with Article 9 of the Uniform Commercial Code. Mortgagor shall pay, or at Mortgagee's election shall reimburse Mortgagee for, all filing fees in connection therewith. Mortgagor shall not change its name, principal place of business or jurisdiction of formation without giving Mortgagee at least thirty (30) days prior written notice thereof, which notice shall be accompanied by new financing statements authorized by Mortgagor in the same form as the financing statements delivered to Mortgagee on the date hereof except for the change of address or jurisdiction.

(c) Upon any Event of Default hereunder or under any Loan Document, Mortgagee shall have, in addition to any other rights and remedies hereunder or under any Loan Document, all of the rights and remedies granted to a secured party under the Uniform Commercial Code with respect to such personal property. To the extent permitted by law, Mortgagor and Mortgagee agree that the items set forth on the financing statements shall be treated as part of the real estate and improvements regardless of the fact that such items are set forth in the financing statements. Such items are contained in the financing statements to create a security interest in favor of Mortgagee in the event such items are determined to be personal property under the law. Notwithstanding any release of any or all of that property included in the Mortgaged Property which is deemed "real property" or any proceedings to foreclose this Mortgage or its satisfaction of record, the terms hereof shall survive as a security agreement with respect to the security interest created hereby and referred to above until the repayment or satisfaction in full of the obligations of Mortgagor as are now or hereafter evidenced by the Note.

(d) To the extent permitted under the Uniform Commercial Code or other applicable law, Mortgagor waives all rights of redemption and all other rights and remedies of a

debtor thereunder and all formalities prescribed by law relative to the sale or disposition of the personal property after the occurrence of an Event of Default hereunder and to all other rights and remedies of Mortgagor with respect thereto. In exercising its right to take possession of the personal property upon the occurrence of an Event of Default hereunder, Mortgagee may enter upon the Mortgaged Property without being guilty of trespass or any other wrong-doing, and without liability for damage thereby occasioned.

(e) Mortgagor shall reimburse Mortgagee, on demand, for all reasonable expenses of retaking, holding, preparing for sale, lease or other use or disposition, selling, leasing or otherwise using or disposing of the personal property which are incurred or paid by Mortgagee, including, without limitation, all attorneys' fees, legal expenses and costs, and all such expenses shall be added to Mortgagor's obligations to Mortgagee and shall be secured hereby.

11. Status of the Mortgaged Property; Compliance with Laws and Regulations.

(a) No portion of the Improvements is located in an area identified by the Secretary of Housing and Urban Development or any successor thereto as an area having special flood hazards pursuant to the National Flood Insurance Act of 1968 or the Flood Disaster Protection Act of 1973, as amended, or any successor law, or, if located within any such area, Mortgagor has obtained and will maintain the insurance prescribed in Section 4 hereof.

(b) Mortgagor has obtained all necessary certificates, permits, licenses and other approvals, governmental and otherwise, necessary for the use, occupancy and operation of the Mortgaged Property and the conduct of its business (including, without limitation, certificates of completion and certificates of occupancy) 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.

(c) The Mortgaged Property and the present and contemplated use and occupancy thereof are to the best knowledge of Mortgagor in full compliance with all applicable laws, including, without limitation, zoning ordinances, building codes, land use and environmental laws, laws relating to the disabled (including, but not limited to, substantial compliance with the ADA) and other similar laws.

(d) The Mortgaged Property is served by all utilities required for the current or contemplated use thereof. All utility service is provided by public utilities and the Mortgaged Property has accepted or is equipped to accept such utility service.

(e) All public roads and streets necessary for service of and access to the Mortgaged Property for the current or contemplated use thereof have been completed, are serviceable and are physically and legally open for use by the public.

(f) The Mortgaged Property is served by public water and sewer systems.

(g) The Mortgaged Property is free from damage caused by fire or other casualty. There is no pending or, to the best knowledge of Mortgagor, threatened condemnation proceedings affecting the Mortgaged Property or any portion thereof.

(h) To date, 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 (except in connection with capital improvement work approved by Mortgagee) and no notice of any mechanics' or materialmen's liens or of any claims of right to any such liens have been received.

(i) To date, Mortgagor has paid in full for, and is the owner of, all furnishings, fixtures and equipment (other than tenants' property) used in connection with the operation of the Mortgaged Property, free and clear of any and all security interests, liens or encumbrances, except the lien and security interest created hereby or as otherwise approved by Mortgagee.

(j) All liquid and solid waste disposal, septic and sewer systems located on the Mortgaged Property are to the best knowledge of Mortgagor in a good and safe condition and repair and in compliance with all applicable laws.

(k) All Improvements lie, or once constructed will lie, within the boundary of the Land.

(l) Mortgagor shall comply with all laws, ordinances, regulations and orders of all federal, state, municipal and other governmental authorities relating to the Mortgaged Property. Mortgagor will pay all license fees and similar municipal charges for the use of the Mortgaged Property and any other areas now or hereafter comprising part thereof or used in connection therewith and will not, unless so required by a governmental agency having jurisdiction, discontinue use or occupancy of any portion of the Mortgaged Property without the prior written consent of Mortgagee. The Mortgagor shall not take or permit any action with respect to the Mortgaged Property which will in any manner impair the security of this Mortgage.

12. Inspection. Mortgagee and any persons authorized by Mortgagee shall have the right at any time, upon notice, to enter the Mortgaged Property at a reasonable hour to inspect and photograph its condition and state of repair and/or for the purposes of appraising the same or making advances under the Note.

13. Declaration of No Set-Off. Within five (5) Business Days after being requested to do so by Mortgagee, Mortgagor shall certify to Mortgagee or to any proposed assignee of this Mortgage, in a writing duly acknowledged, the amount of principal, interest and other charges then owing on the obligation secured by this Mortgage and by prior liens, if any, and whether Mortgagor claims any set-offs or defenses against Mortgagor's obligation to pay such amounts, and if so the precise basis for such set-offs or defenses.

14. Required Notices. Mortgagor shall notify Mortgagee promptly of the occurrence of any of the following and shall deliver to Mortgagee any written evidence of any of the following within three (3) days of the receipt thereof:

- (a) a fire or other casualty causing damage to the Mortgaged Property;
- (b) receipt of notice of eminent domain proceedings or condemnation of the Mortgaged Property, or any part thereof;
- (c) receipt of notice from any governmental authority asserting a violation of (or substantial change in) any governmental requirements relating to the structure, use or occupancy of the Mortgaged Property;
- (d) receipt of any correspondence from any tenant of all or any portion of the Mortgaged Property asserting a material default (or an act or omission on Mortgagor's part which could result in a material default) by Mortgagor under such tenant's Lease;
- (e) substantial, adverse change in the occupancy of the Mortgaged Property;
- (f) commencement of any litigation with potential damages greater than \$15,000.00 affecting the Mortgaged Property other than accident claims covered by insurance and for which the insurance carrier has acknowledged liability; or
- (g) receipt of any notice from the holder or claimant of any lien or security interest in the Mortgaged Property.

15. Condemnation.

(a) Mortgagor shall give Mortgagee prompt notice of any Condemnation (as defined in the Loan Agreement) and/or Casualty (as defined in the Loan Agreement) occurring to the Mortgaged Property or any portion thereof. Mortgagor's rights and obligations with regard to any such Condemnation and/or Casualty (including, but not limited to, with regard the disposition of any proceeds resulting therefrom) shall be governed by (i) Section 13 and Section 14 of the Loan Agreement, which are both hereby incorporated herein and made a material part hereof by this reference as if such provisions were set forth herein in their entirety and (ii) Section 15 of this Deed of Trust (to the extent not inconsistent with Section 13 and Section 14 of the Loan Agreement).

(b) If prior to the receipt of the Net Proceeds (as defined in the Loan Agreement) by Mortgagee the Mortgaged Property shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive the Net Proceeds to the extent of:

- (i) any deficiency found to be due to Mortgagee in connection with the foreclosure sale, with legal interest thereon, and
- (ii) reasonable counsel fees, costs and disbursements incurred by Mortgagee in connection with collection of the proceeds and the proceedings to establish the deficiency.

(c) If the amount of the initial award of damages for the Condemnation is insufficient to pay in full the indebtedness secured hereby with interest and other appropriate charges, Mortgagee shall have the right to prosecute to final determination or settlement an appeal or other appropriate proceedings in the name of Mortgagee or Mortgagor, for which Mortgagee is hereby appointed irrevocably as attorney-in-fact for Mortgagor, which appointment, being for security, is irrevocable. In that event, the expenses of the proceedings, including reasonable counsel fees, shall be paid first out of the Net Proceeds and only the excess, if any, paid to Mortgagee shall be credited against the amounts due under this Mortgage.

(d) Nothing herein shall limit the rights otherwise available to Mortgagee, at law or in equity, including the right to intervene as a party to any Condemnation proceeding.

(e) No application of Net Proceeds to the payment of the Debt shall postpone any of the current installments of principal or interest becoming due under the Note until the Debt is paid in full.

16. Leases. Mortgagor hereby represents that there are no Leases or agreements to lease all or any part of the Mortgaged Property now in effect, except those leases assigned to Mortgagee by Mortgagor as collateral security pursuant to those certain Assignments of Rents and Leases of even date herewith. Mortgagor covenants and agrees that any future leases for portions of the Mortgaged Property will be in compliance with Section 8(p) of the Loan Agreement.

17. No Other Financing or Liens. Without the prior written consent of Mortgagee, which Mortgagee can grant or withhold in its sole and absolute discretion, Mortgagor shall not create or cause or permit to exist any lien on, or security interest in the Mortgaged Property or any part thereof (whether or not such lien or security interest is subordinate to the lien of this Mortgage), including any furniture, fixtures, appliances, machinery, equipment, or other items of personal property which are intended to be or become part of the Mortgaged Property, or securing repayment of monies paid to or for the benefit of Mortgagor, other than to Mortgagee. Any violation of the foregoing limitation, at the option of Mortgagee, shall be deemed an Event of Default hereunder.

18. No Transfer. Except as permitted by the express terms of the Loan Agreement, Mortgagor will abstain from and will not cause or permit any transfer of title to, beneficial interest in, or any estate or other interest in the Mortgaged Property or any part thereof, voluntarily or by operation of law (other than by execution on the Note or foreclosure under this Mortgage or exercise of the power of eminent domain), whether by sale, exchange, conveyance, merger, division, consolidation or otherwise.

19. Right to Remedy Defaults. In the event that Mortgagor should fail to pay corporate taxes, real estate or other taxes, assessments, water and sewer rents, charges and claims on or before the date on which any penalty may be imposed with respect thereto, or fail to pay insurance premiums, or fail to make necessary repairs, or permit waste, or fail to comply with

any other provision of this Mortgage or the Loan Documents, Mortgagee, at its election and without notice to Mortgagor, shall have the right to make any payment or expenditure and to take any action which Mortgagor should have made or taken, or which Mortgagee deems advisable to protect the security of this Mortgage or the Mortgaged Property, without prejudice to any of Mortgagee's rights or remedies available hereunder or otherwise, at law or in equity. All such sums, as well as costs, advanced by Mortgagee pursuant to this Mortgage shall be due immediately from Mortgagor to Mortgagee, shall be secured hereby, and shall bear interest at the Default Rate (as defined in the Note) from the date of payment by Mortgagee until the date of repayment.

20. Future Advances. This Mortgage is given partly to secure and hereby secures all future advances and obligations of Mortgagor to Mortgagee incurred or to be incurred pursuant to the terms of the Note and this Mortgage, including, but not limited to, all advances made for the payment of taxes, assessments, maintenance charges, insurance premiums, or costs similar or dissimilar, incurred for the protection of the Mortgaged Property or for the lien of this Mortgage, expenses incurred by Mortgagee by reason of default by Mortgagor, or advances made under a construction loan to enable the completion of the improvements for which the construction loan was originally made. This Mortgage shall extend to and secure any additional loans made by Mortgagee to Mortgagor at any time or times hereafter. All remedies available for default in the Note, or in this Mortgage shall be available to enforce such other obligations, indebtedness and liabilities upon default in any of the same.

21. Events of Default. Each of the following shall constitute an event of default (hereinafter called "Event of Default") hereunder:

(a) The failure of Mortgagor or any other party obligated in any way to Mortgagee with respect to the Note, including without limitation any guarantor or surety (each, an "Obligor") to pay an installment of principal or interest, or any other sum, due under the Note, this Mortgage or any other Loan Document when due or if the entire Debt is not paid on or before the maturity date;

(b) Mortgagor's noncompliance or nonperformance of any other term, covenant or condition contained in this Mortgage or in any of the Loan Documents, or in any document of record which encumbers the Mortgaged Property;

(c) If an Event of Default (as defined in such other Loan Document) shall have occurred under any other Loan Document;

(d) If any representation or warranty of Mortgagor or of its members, general partners, principals, affiliates, agents or employees furnished to Mortgagee shall have been false or misleading in any material respect when made;

(e) If Mortgagor shall be in default under any Mortgage or other lien against all or any portion of the Mortgaged Property or any document executed or delivered in connection therewith;

(f) If any inferior or subordinate lien encumbers the Mortgaged Property securing monies paid to or for the benefit of Mortgagor or subject to Mortgagor's right to contest certain liens as provided in this Mortgage, if the Mortgaged Property becomes subject to any mechanic's, materialman's or other lien other than a lien for local real estate taxes and assessments not then due and payable and the lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of thirty (30) calendar days;

(g) If any of the following occurs with respect to Mortgagor, any Obligor, or any general partner, manager or member of Mortgagor: (i) insolvency, general assignment for the benefit of creditors, the entry of an order for relief under the United State Bankruptcy Code of 1978, as amended, 11 U.S.C. §101 et seq. (the "Bankruptcy Code"), or the filing of a bill in equity or the initiation of other proceedings for the appointment of a receiver of assets; (ii) the voluntary filing (or an involuntary filing by any affiliate of Mortgagee) of a petition or initiation of other proceedings in any court for a composition with creditors for relief in any manner from the payment of debts when due under any state or federal law; or (iii) the institution of any proceedings in bankruptcy or for the appointment of a receiver, liquidator, trustee or other such officer under any state or federal law by any creditor;

(h) Should any federal or state tax lien or any claim or lien for labor or materials be filed of record against Mortgagor or the Mortgaged Property or any part thereof; provided, however, the filing of any such lien or claim shall not be a default if after prior notice to Mortgagee, Mortgagor, 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 such lien provided that (i) no default exists under the Note or the Mortgage, (ii) such proceeding shall suspend the collection of the taxes from Mortgagor and from the Mortgaged Property, (iii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Mortgagor or the Mortgaged Property is subject and shall not constitute a default thereunder, (iv) neither the Mortgaged Property nor any part thereof or interest therein will, in the reasonable opinion of Mortgagee, be in danger of being sold, forfeited, terminated, canceled or lost, (v) Mortgagor shall have set aside adequate reserves for payment of the taxes, together with all interest and penalties thereon, and (vi) Mortgagor shall have furnished such security as may be required in the proceeding, or as may be reasonably requested by Mortgagee to insure the payment of any such taxes, together with all interest and penalties thereon;

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

(j) Except as permitted in this Mortgage and/or the Loan Agreement, the actual or threatened alteration, improvement, demolition or removal of any of the Improvements, or any construction on the Mortgaged Property, without the prior consent of Mortgagee;

(k) Damage to the Mortgaged Property in any manner which is not covered by insurance, which lack of coverage arises solely as a result of Mortgagor's failure to maintain the insurance required under this Mortgage;

(l) Seizure or forfeiture of the Mortgaged Property, or any portion thereof, or Mortgagor's interest therein, resulting from criminal wrongdoing or other unlawful action of Mortgagor, its affiliates, or any tenant in the Mortgaged Property under any federal, state or local law;

(m) If Mortgagor consummates a transaction which would cause this Mortgage or Mortgagee's exercise of its rights under this Mortgage, the Note or the Other Loan Documents to constitute a nonexempt prohibited transaction under ERISA or result in a violation of a state statute regulating governmental plans, subjecting Mortgagee to liability for a violation of ERISA or a state statute;

(n) If any default occurs under any guaranty or indemnity including the Environmental Indemnification executed in connection herewith and such default continues after the expiration of applicable grace periods, or such guaranty or indemnity shall cease to be in full force and effect, or any guarantor or indemnitor shall deny or disaffirm its obligation thereunder; and/or

(o) Failure of Mortgagor or Guarantor, for a period of fifteen (15) days after written notice from Mortgagee, to observe or perform any non-monetary covenant or condition contained in this Mortgage or any other Loan Document not set forth in the subsections above; provided that if any such failure concerning a non-monetary covenant or condition is susceptible to cure and cannot reasonably be cured within said fifteen (15) day period, then the defaulting party shall have an additional thirty (30) day period to cure such failure and no Event of Default shall be deemed to exist hereunder so long as the defaulting party commences such cure within the initial fifteen (15) day period and diligently and in good faith pursues such cure to completion within such resulting forty-five (45) day period from the date of Mortgagee's notice.

22. Remedies.

(a) Upon Mortgagor's breach of any covenant or agreement contained herein, beyond any applicable notice requirement or grace period, including but not limited to, the covenants to pay when due any sums secured by this Mortgage, Mortgagee, in its sole judgment and discretion, may declare all of the sums secured by this Mortgage to be immediately due and payable, to the full extent permitted by law, without further demand and may foreclose this Mortgage by judicial proceedings and may invoke any other remedies permitted by applicable law or provided herein. Mortgagee shall be entitled to collect all costs and expenses incurred in pursuing such remedies.

(b) When the entire indebtedness shall become due and payable, either because of maturity or because of the occurrence of any Event of Default, or otherwise, then forthwith:

(i) Foreclosure. Mortgagee may institute an action of mortgage foreclosure against the Mortgaged Property, or take such other action at law or in equity for the enforcement of this Mortgage and realization on the mortgage security or any other security



herein or elsewhere provided for, as the law may allow, and may proceed therein to final judgment and execution for the entire unpaid balance of the principal debt, with interest at the rate stipulated in the Note to the date of default, and thereafter at the Default Rate (as defined in the Note), together with all other sums due by Mortgagor in accordance with the provisions of the Note and this Mortgage, including all sums which may have been loaned by Mortgagee to Mortgagor after the date of this Mortgage, and all sums which may have been advanced by Mortgagee for taxes, water or sewer rents, charges or claims, payments on prior liens, insurance or repairs to the Mortgaged Property, all costs of suit, reasonable attorneys' fees and other expenses in connection therewith, together with interest at such rate on any judgment obtained by Mortgagee from and after the date of any foreclosure sale until actual payment is made by the Sheriff of the full amount due Mortgagee. This Mortgage shall be subject to foreclosure and may be foreclosed as provided by law in case of past-due mortgages, and Mortgagee shall be authorized, at its option, whether or not possession of the Mortgaged Property is taken, to sell the Mortgaged Property (or such part of parts thereof as Mortgagee may from time to time elect to sell) under the power of sale which is hereby given to Mortgagee, at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the Mortgaged Property to be sold, or a substantial or material part thereof, is located, after first giving notice by publication one a week for three successive weeks of the time, place and terms of such sale, together with a description of the Mortgaged Property to be sold, by publication in some newspaper published in the county or counties in which the Mortgaged Property to be sold is located. If there is Mortgaged Property to be sold in more than one county, publication shall be made in all counties where the Mortgaged Property to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. Mortgagee may bid at any sale held under this Mortgage and may purchase the Mortgaged Property, or any part thereof, if the highest bidder therefore. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. At any sale all or any part of the Mortgaged Property, real, personal, or mixed, may be offered for sale in parcels or en masse for one total price, and the proceeds of any such sale en masse shall be accounted for in one amount without distinction between the items included therein and without assigning to them any proportion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all the Obligations shall have been paid in full and this Mortgage shall have been terminated as provided herein. In case of any sale of the Mortgaged Property as authorized by this Section, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Obligations or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as rebuttably presumptive evidence that the facts so stated or recited are true.; or

(ii) Possession. Mortgagee may enter into possession of the

Mortgaged Property, manage, lease and operate the Mortgaged Property, collect therefrom all rentals (which term shall also include sums payable for use and occupancy) and, after deducting all costs of collection and administration expense, apply the net rental to any or all of the following in such order and amounts as Mortgagee, in Mortgagee's sole discretion, may elect: the payment of taxes, water and sewer rents, charges and claims, insurance premiums and all other carrying charges, and to the maintenance, repair or restoration of the Mortgaged Property, and on account and in reduction of the principal or interest, or both, hereby secured; in and for that purpose Mortgagor hereby assigns to Mortgagee all rentals due and to become due under any lease or leases or rights to use and occupancy of the Mortgaged Property hereafter created, as well as all rights and remedies provided in such lease or leases or at law or in equity for the collection of the rentals; or

(iii) Receiver. Mortgagee may, upon any proper action or proceeding being commenced for the foreclosure of this Mortgage, apply for, and Mortgagee as a matter of right, without consideration of the value of the Mortgaged Property as security for the amount due Mortgagee, or of the solvency of any person, firm or corporation obligated for the payment of such amount, shall be entitled to, the appointment by any competent court or tribunal, without prior demand or notice to any party, of a receiver of rents and profits and rental value of the Mortgaged Property, with power to take possession of the Mortgaged Property, including possession from Mortgagor if in possession and occupying any portion of the Mortgaged Property, and in the latter case to require Mortgagor, as a condition of remaining in possession and occupation, to pay the reasonable rental value for the use and occupation thereof, with further power to lease and repair the Mortgaged Property and to renovate same to suit new tenants and with such other powers as may be deemed necessary, and such receiver after deducting all proper charges and expenses attending the execution of the said trust as receiver, shall each month pay over to Mortgagee the residue of the said rents and profits and rental value, to be applied by Mortgagee to the payment of the amount remaining secured hereby, or to any deficiency (whether or not any judgment therefor may be entered and irrespective of the market value of the Mortgaged Property) which may exist in the event of foreclosure by sale after applying the proceeds of the sale of the Mortgaged Property to the payment of the amount due, including interest, costs and expenses of such foreclosure and sale, or in the event of strict foreclosure to the payment of any deficiency existing thereunder. A receiver, while in possession of the Mortgaged Property, shall have the right to make repairs and to make improvements necessary or advisable in its or his opinion to preserve the Mortgaged Property, or to make and keep them rentable to the best advantage, and Mortgagee may advance moneys to a receiver for such purposes. Any moneys so expended or advanced by Mortgagee or by a receiver shall be repaid so far as possible out of the rents collected after payment of other expenses properly chargeable against said rents, and any unpaid balance of moneys so advanced or expended shall be added to and become a part of the debt secured by this Mortgage.

(c) Mortgagee shall have the right, from time to time, to bring an appropriate action to recover any sums required to be paid by Mortgagor under the terms of this Mortgage, as they become due, without regard to whether or not the principal indebtedness or any other sums secured by the Note and this Mortgage shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action of Mortgage Foreclosure, or any other action, for any

default by Mortgagor existing at the time the earlier action was commenced.

(d) Any real estate sold pursuant to any writ or order of execution issued on a judgment obtained by virtue of the Note or this Mortgage, or pursuant to any other judicial proceedings under the Mortgage, may be sold in one parcel, as an entirety, or in such parcels, and in such manner or order as Mortgagee, in its sole discretion, may elect.

23. Rights and Remedies Cumulative.

(a) The rights and remedies of Mortgagee as provided in this Mortgage, the Note, and every Loan Document, shall be cumulative and concurrent; may be pursued separately, successively or together against Mortgagor or against the Mortgaged Property, or both, at the sole discretion of Mortgagee; and may be exercised as often as occasion therefor shall arise. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

(b) Any failure by Mortgagee to insist upon strict performance by Mortgagor of any of the terms and provisions of this Mortgage or the Note shall not be deemed to be a waiver of any of the terms or provisions of the Mortgage or Note, and Mortgagee shall have the right thereafter to insist upon strict performance by Mortgagor of any and all of them.

(c) Neither Mortgagor nor any other person now or hereafter obligated for payment of all or any part of the sums now or hereafter secured by this Mortgage shall be relieved of such obligation by reason of the failure of Mortgagee to comply with any request of Mortgagor or of any other person so obligated to take action to foreclose on this Mortgage or otherwise enforce any provisions of the Mortgage or the Note, or by reason of the release, regardless of consideration, of all or any part of the security held for the indebtedness secured by this Mortgage, or by reason of any agreement or stipulation between any subsequent owner of the Mortgaged Property and Mortgagee extending the time of payment or modifying the terms of the Mortgage or Note without first having obtained the consent of Mortgagor or such other person; and in the latter event Mortgagor and all such other persons shall continue to be liable to make payments according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Mortgagee.

(d) Mortgagee may release, regardless of consideration, any part of the security held for the indebtedness secured by this Mortgage without, as to the remainder of the security, in any way impairing or affecting the lien of this Mortgage or its priority over any subordinate lien.

(e) For payment of the indebtedness secured hereby, Mortgagee may resort to any other security therefor held by Mortgagee in such order and manner as Mortgagee may elect.

24. Mortgagor's Waivers. Mortgagor hereby waives and releases:

(c) all benefit that might accrue to Mortgagor by virtue of any present or

future law exempting the Mortgaged Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any stay of execution, exemption from civil process or extension of time for payment;

(d) unless specifically required herein, all notices of Mortgagor's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise of any option under the Note or this Mortgage;

(e) after sale or sales of the Mortgaged Property any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof; and

(f) any right to have the Mortgaged Property marshaled upon any foreclosure hereunder. The right is hereby given by Mortgagor and reserved by Mortgagee to make partial release or releases of security hereunder, agreeable to Mortgagee without notice to, or the consent, approval or agreement of other parties in interest, which partial release or releases shall not impair in any manner the validity of or priority of this Mortgage on the security remaining, nor release the personal liability of Mortgagor for the debt hereby secured.

Mortgagor hereby expressly waives all benefit or advantage of any such law or laws to the extent that it lawfully may, and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

25. Indemnification; Subrogation.

(a) General Indemnification.

(i) Mortgagor shall indemnify, defend and hold Mortgagee harmless against: (x) any and all claims for brokerage, leasing, finder's or similar fees which may be made relating to the Mortgaged Property or the Debt, and (y) any and all liability, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses (including Mortgagee's reasonable attorneys' fees, together with reasonable appellate counsel fees, if any) of whatever kind or nature which may be asserted against, imposed on or incurred by Mortgagee in connection with the Debt, this Mortgage, the Mortgaged Property, or any part thereof, or the exercise by Mortgagee of any rights or remedies granted to it under this Mortgage; provided, however, that nothing herein shall be construed to obligate Mortgagor to indemnify, defend and hold harmless Mortgagee from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses enacted against, imposed on or incurred by Mortgagee by reason of Mortgagee's willful misconduct or gross negligence or that first come into existence after Mortgagee acquires title to the Mortgaged Property by foreclosure or deed in lieu thereof.

(ii) If Mortgagee is made a party defendant to any litigation or any claim is threatened or brought against Mortgagee concerning the secured indebtedness, this Mortgage, the Mortgaged Property, or any part thereof, or any interest therein, or the construction, maintenance, operation or occupancy or use thereof, then Mortgagee shall notify



Mortgagor of such litigation or claim and Mortgagor shall indemnify, defend and hold Mortgagee harmless from and against all liability by reason of said litigation or claims, including attorneys' fees (together with reasonable appellate counsel fees, if any). The right to such reasonable attorneys' fees (together with reasonable appellate counsel fees, if any) and expenses incurred by Mortgagee in any such litigation or claim of the type described in this Section 25(a)(ii) whether or not any such litigation or claim is prosecuted to judgment, shall be deemed to have accrued on the commencement of such claim or action and shall be enforceable whether or not such claim or action is prosecuted to judgment. If Mortgagee commences an action against Mortgagor to enforce any of the terms hereof or to prosecute any breach by Mortgagor of any of the terms hereof or to recover any sum secured hereby, Mortgagor shall pay to Mortgagee its reasonable attorneys' fees (together with reasonable appellate counsel fees, if any) and expenses. If Mortgagor breaches any term of this Mortgage, Mortgagee may engage the services of an attorney or attorneys to protect its rights hereunder, and in the event of such engagement following any breach by Mortgagor, Mortgagor shall pay Mortgagee reasonable attorneys' fees (together with reasonable appellate counsel fees, if any) and expenses incurred by Mortgagee, whether or not an action is actually commenced against Mortgagor by reason of such breach. All references to "attorneys" in this Section 25(a)(ii) and elsewhere in this Mortgage shall include without limitation any attorney or law firm engaged by Mortgagee and Mortgagee's in-house counsel, and all references to "fees and expenses" in this Section 25(a)(ii) and elsewhere in this Mortgage shall include without limitation any fees of such attorney or law firm and any allocation charges and allocation costs of Mortgagee's in-house counsel.

(iii) A waiver of subrogation shall be obtained by Mortgagor from its insurance carrier and, consequently, Mortgagor waives any and all right to claim or recover against Mortgagee, its officers, employees, agents and representatives, for loss of or damage to Mortgagor, the Mortgaged Property, Mortgagor's property or the property of others under Mortgagor's control from any cause insured against or required to be insured against by the provisions of this Mortgage.

(b) Duty To Defend And Attorneys And Other Fees And Expenses. Upon written request by any Indemnified Party, Mortgagor shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals reasonably approved by the Indemnified Parties. If Mortgagor does not provide a defense by attorneys and other professionals satisfactory to Indemnified Parties, any Indemnified Parties may, in their sole and absolute 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 claim or proceeding. Upon demand, Mortgagor shall pay or, in the sole and absolute 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.

(c) Survival Of Indemnities. Notwithstanding any provision of this Mortgage or any other Loan Document to the contrary, the provisions of Section 25(a), and Mortgagor's obligations thereunder, shall survive (a) the repayment of the Debt, (b) the foreclosure of this Mortgage, and (c) the release (or reconveyance, as applicable) of the lien of this Mortgage.

26. Hazardous Substances. Mortgagor hereby represents and warrants to Mortgagee that, as of the date hereof, except as disclosed in writing to Mortgagee: (i) to the best of Mortgagor's knowledge, information and belief, except as expressly set forth in the environmental report prepared for Mortgagee in connection with the Loan (the "Environmental Report"), the Mortgaged Property is not in direct or indirect violation of any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination or clean-up (collectively, "Environmental Laws"), including, without limitation, means any present and future federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law, relating to protection of human health or the environment, relating to Hazardous Substances, relating to liability for or costs of Remediation or prevention of Releases of Hazardous Substances or relating to liability for or costs of other actual or future danger to human health or the environment or relating to any wrongful death, personal injury or property damage that is caused by or related to the presence, growth, proliferation, reproduction, dispersal, or contact with any biological organism or portion thereof, including molds or other fungi, bacteria or other microorganisms or any etiologic agents or materials. The term "Environmental Law" includes the following statutes, as amended, any successor thereto, and any regulations promulgated pursuant thereto, and any state or local statutes, ordinances, rules, regulations and the like addressing similar issues: the Alabama Drycleaners Environmental Response Trust Fund Act, the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Hazardous Substances Transportation Act; the Resource Conservation and Recovery Act (including but not limited to Subtitle I relating to underground Storage Tanks); the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Occupational Safety and Health Act; the Federal Water Pollution Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Endangered Species Act; the National Environmental Policy Act; and the River and Harbors Appropriation Act. The term "Environmental Law" also includes any present and future federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law, conditioning transfer of property upon a negative declaration or other approval of a governmental authority of the environmental condition of the Mortgaged Property; requiring notification or disclosure of Releases of Hazardous Substances or other environmental condition of the Mortgaged Property to any governmental authority or other person or entity, whether or not in connection with transfer of title to or interest in property; imposing conditions or requirements in connection with permits or other authorization for lawful activity; relating to nuisance, trespass or other causes of action related to the Mortgaged Property; and relating to wrongful death, personal injury, or property or other damage in connection with any physical condition or the presence of biological or etiologic agents or materials or use, management, or maintenance of the Mortgaged Property; (ii) to the best of Mortgagor's knowledge, information and except as expressly set forth in the Environmental Report, no hazardous, toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, any and all substances biological and etiologic agents or materials (whether solid, liquid or gas) defined, listed, or otherwise classified as pollutants, hazardous wastes, hazardous substances, hazardous materials, extremely hazardous wastes, or words of similar meaning or regulatory effect under any present or future Environmental Laws or that may have a negative impact on human health or the environment, including but not limited to petroleum and petroleum products, asbestos and asbestos-containing

materials, polychlorinated biphenyls, lead, lead-based paints, radon, radioactive materials, flammables and explosives, and any biological organism or portion thereof (living or dead), including molds or other fungi, bacteria or other microorganisms, or any etiologic agents or materials (collectively, "Hazardous Substances") are located on or have been handled, generated, stored, processed or disposed of on or released or discharged from the Mortgaged Property (including underground contamination) except for those substances used by Mortgagor or Tenants in the ordinary course of their respective business and in compliance with all Environmental Laws; (iii) the Mortgaged Property is not subject to any private or governmental lien or judicial or administrative notice or action relating to Hazardous Substances; (iv) to the best of Mortgagor's knowledge, information and belief, except as expressly set forth in the Environmental Report, there are no existing or closed underground storage tanks or other underground storage receptacles for Hazardous Substances on the Mortgaged Property; (v) Mortgagor has received no notice of, and to the best of Mortgagor's knowledge and belief, there exists no investigation, action, proceeding or claim by any agency, authority or unit of government or by any third party which could result in any liability, penalty, sanction or judgment under any Environmental Laws with respect to any condition, use or operation of the Mortgaged Property nor does Mortgagor know of any basis for such a claim; and (vi) Mortgagor has received no notice of and, to the best of Mortgagor's knowledge and belief, there has been no claim by any party that any use, operation or condition of the Mortgaged Property has caused any nuisance or any other liability or adverse condition on any other property nor does Mortgagor know of any basis for such a claim.

Mortgagor shall keep or cause the Mortgaged Property to be kept free from Hazardous Substances (except those substances used by Mortgagor and Tenants in the ordinary course of their respective business and, in each case, in compliance with all Environmental Laws) and in compliance with all Environmental Laws, shall not install or use any underground storage tanks, shall expressly prohibit the use, generation, handling, storage, production, processing and disposal of Hazardous Substances by all Tenants and, without limiting the generality of the foregoing, during the term of this Mortgage, shall not install in the Improvements or permit to be installed in the Improvements asbestos-containing materials ("ACMs") or any substance containing ACMs. Mortgagor shall, if required under applicable Environmental Laws, maintain all applicable Material Safety Data Sheets with respect to the Property, and make same available to Mortgagee or Mortgagee's consultants upon reasonable notice.

Mortgagor shall promptly notify Mortgagee if Mortgagor shall become aware of the possible existence of any Hazardous Substances on the Mortgaged Property or if Mortgagor shall become aware that the Mortgaged Property is or may be in direct or indirect violation of any Environmental Laws. Further, immediately upon receipt of the same, Mortgagor shall deliver to Mortgagee copies of any and all orders, notices, permits, applications, reports, and other communications, documents and instruments pertaining to the actual, alleged or potential presence or existence of any Hazardous Substances at, on, about, under, within, near or in connection with the Mortgaged Property. Mortgagor shall, promptly and when and as required by Mortgagee, at Mortgagor's sole cost and expense, take all actions as shall be necessary or advisable for the clean-up of any and all portions of the Mortgaged Property or other affected



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property, including, without limitation, all investigative, monitoring, removal, containment and remedial actions in accordance with all applicable Environmental Laws (and in all events in a manner satisfactory to Mortgagee), and shall further pay or cause to be paid, at no expense to Mortgagee, all clean-up, administrative and enforcement costs of applicable governmental agencies which may be asserted against the Mortgaged Property; in the event Mortgagor fails to take such actions, (1) Mortgagee may, but shall not be obligated to, cause the Property or other affected property to be freed from any Hazardous Substances or otherwise brought into conformance with Environmental Laws and any and all costs and expenses incurred by Mortgagee in connection therewith, together with interest thereon at the Default Rate (as defined in the Note) from the date incurred by Mortgagee until actually paid by Mortgagor, shall be immediately paid by Mortgagor on demand, and (2) Mortgagor hereby grants to Mortgagee and its agents and employees access to the Mortgaged Property and a license to remove any items deemed by Mortgagee to be Hazardous Substances and to do all things Mortgagee shall deem necessary to bring the Property in conformance with Environmental Laws. Mortgagor covenants and agrees, at Mortgagor's sole cost and expense, to indemnify, defend (at trial and appellate levels, and with attorneys, consultants and experts acceptable to Mortgagee), and hold Mortgagee harmless from and against any and all liens, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys', consultants' and experts' fees and disbursements actually incurred in investigating, defending, settling or prosecuting any claim, litigation or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Mortgagee or the Mortgaged Property, and arising directly or indirectly from or out of: (i) the presence, release or threat of release of any Hazardous Substances on, in, under or affecting all or any portion of the Mortgaged Property or any surrounding areas, regardless of whether or not caused by or within the control of Mortgagor; (ii) the violation of any Environmental Laws relating to or affecting the Mortgaged Property, whether or not caused by or within the control of Mortgagor; (iii) the failure by Mortgagor to comply fully with the terms and conditions of this Section 26; (iv) the breach of any representation or warranty contained in this Section 26; or (v) the enforcement of this Section 26, including, without limitation, the cost of assessment, containment and/or removal of any and all Hazardous Substances from all or any portion of the Mortgaged Property or any surrounding areas, the cost of any actions taken in response to the presence, release or threat of release of any Hazardous Substances on, in, under or affecting any portion of the Mortgaged Property or any surrounding areas to prevent or minimize such release or threat of release so that it does not migrate or otherwise cause or threaten danger to present or future public health, safety, welfare or the environment, and costs incurred to comply with the Environmental Laws in connection with all or any portion of the Mortgaged Property or any surrounding areas. The indemnity set forth in this Section 26 shall also include any diminution in the value of the security afforded by the Mortgaged Property or any future reduction in the sales price of the Mortgaged Property by reason of any matter set forth in this Section 26. Mortgagee's rights under this Section shall survive payment in full of the Obligations and shall be in addition to all other rights of Mortgagee under this Mortgage, the Note and the other Loan Documents.

Upon Mortgagee's request, at any time after Mortgagee has reasonable grounds to believe that Hazardous Substances are or have been released, stored or disposed of on or around the Mortgaged Property or that the Mortgaged Property may be in violation of the Environmental Laws, Mortgagor shall provide, at Mortgagor's sole cost and expense, an inspection or audit of the Mortgaged Property prepared by a hydrogeologist or environmental engineer or other appropriate consultant approved by Mortgagee indicating the presence or absence of Hazardous Substances on the Mortgaged Property or an inspection or audit of the Improvements prepared by an engineering or consulting firm approved by Mortgagee indicating the presence or absence of friable asbestos or substances containing asbestos on the Mortgaged Property. If Mortgagor fails to provide such inspection or audit within thirty (30) days after such request, Mortgagee may order the same, and Mortgagor hereby grants to Mortgagee and its employees and agents access to the Mortgaged Property and a license to undertake such inspection or audit. The cost of such inspection or audit, together with interest thereon at the Default Interest Rate from the date incurred by Mortgagee until actually paid by Mortgagor, shall be immediately due and payable to Mortgagee by Mortgagor on demand.

The obligations of Mortgagor under this Mortgage (including, without limitation, this Section 26) with respect to Hazardous Substances shall not in any way limit the obligations of any party under the Environmental Indemnification.

27. INTENTIONALLY OMITTED.

28. Further Assurances. Mortgagor will execute and deliver such further instruments and perform such further acts as may be requested by Mortgagee from time to time to confirm the provisions of this Mortgage or the Note, to carry out more effectively the purposes of this Mortgage or the Loan Documents securing the Note, or to confirm the priority of the lien created by this Mortgage on any property, rights or interest encumbered or intended to be encumbered by the lien of this Mortgage or the Loan Documents.

29. Counsel Fees. If Mortgagee becomes a party to any suit or proceeding affecting the Mortgaged Property or title thereto, the lien created by this Mortgage or Mortgagee's interest therein, or if Mortgagee engages counsel to collect any of the indebtedness or to enforce performance of the agreements, conditions, covenants, provisions or stipulations of this Mortgage or the Loan Documents, Mortgagee's costs, expenses and reasonable counsel fees, whether or not suit is instituted, shall be paid to Mortgagee by Mortgagor, on demand, with interest at the then effective rate set forth in the Note, and until paid they shall be deemed to be part of the Debt and secured by this Mortgage.

30. Notices. All notices, demands, statements, requests or consents made hereunder shall be in writing and given in the manner specified in the Loan Agreement.

31. Covenant Running with the Land. Any act or agreement to be done or performed by Mortgagor shall be construed as a covenant running with the land and shall be binding upon Mortgagor and its successors and assigns as if they had personally made such agreement.

32. Waiver of Notice. Mortgagor hereby expressly waives the right to receive any notice from Mortgagee with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by Mortgagee to Mortgagor. No release of any security for the Loan or one or more extensions of time for payment of the Note or any installment thereof, and no alteration, amendment or waiver of any provision of this Mortgage, the Note or the other Loan Documents made by agreement between Mortgagee or any other person, shall release, modify, amend, waive, extend, change, discharge, terminate or affect the liability of Mortgagor or any other person who may become liable for the payment of all or any part of the Loan under the Note, this Mortgage or the other Loan Documents.

33. Jurisdiction, Court Proceedings. MORTGAGOR, TO THE FULLEST EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (I) SUBMITS TO PERSONAL, NONEXCLUSIVE JURISDICTION IN THE COMMONWEALTH OF PENNSYLVANIA WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON ARISING FROM, RELATING TO OR IN CONNECTION WITH THE LOAN DOCUMENT OR THE LOAN, (II) AGREES THAT ANY SUCH SUIT, ACTION OR PROCEEDING MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION SITTING IN PHILADELPHIA, PENNSYLVANIA, (III) SUBMITS TO THE JURISDICTION OF SUCH COURTS, (IV) AGREES THAT IT WILL NOT BRING ANY ACTION, SUIT OR PROCEEDING IN ANY FORUM OTHER THAN PHILADELPHIA, PENNSYLVANIA (BUT NOTHING HEREIN SHALL AFFECT THE RIGHT OF MORTGAGEE TO BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM), (V) IRREVOCABLY AGREES NOT TO ASSERT ANY OBJECTION WHICH IT MAY EVER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT LOCATED IN PENNSYLVANIA AND ANY CLAIM THAT ANY SUCH ACTION, SUIT OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM, AND (VI) CONSENTS AND AGREES TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID, TO MORTGAGOR, PLEDGORS OR GUARANTOR, AS THE CASE MAY BE, AT THE ADDRESS FOR NOTICES DESCRIBED HEREIN AND CONSENTS AND AGREES THAT SUCH SERVICE SHALL CONSTITUTE IN EVERY RESPECT VALID AND EFFECTIVE SERVICE (BUT NOTHING HEREIN SHALL AFFECT THE VALIDITY OR EFFECTIVENESS OF PROCESS SERVED IN ANY OTHER MANNER PERMITTED BY LAW).

34. Waiver of Jury Trial. MORTGAGOR, TO THE FULLEST EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING, INCLUDING, WITHOUT LIMITATION, ANY TORT ACTION, BROUGHT BY MORTGAGOR AGAINST MORTGAGEE BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO OR IN CONNECTION WITH THE LOAN

DOCUMENTS, THE LOAN OR ANY COURSE OF CONDUCT, ACT, OMISSION, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, SUCH PERSON'S DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH SUCH PERSON), IN CONNECTION WITH THE LOAN OR THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, IN ANY COUNTERCLAIM WHICH MORTGAGOR MAY BE PERMITTED TO ASSERT THEREUNDER OR WHICH MAY BE ASSERTED BY MORTGAGEE OR ITS AGENTS AGAINST MORTGAGOR, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THIS WAIVER BY MORTGAGOR, OF ITS RIGHT TO A JURY TRIAL IS A MATERIAL INDUCEMENT FOR MORTGAGEE TO MAKE THE LOAN.

35. Offsets, Counterclaims and Defenses. Mortgagor hereby knowingly waives the right to assert any counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Mortgagee. Any assignee of the Loan Documents or any successor of Mortgagee shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to the Loan Documents which Mortgagor may otherwise have against any assignor of the Loan Documents, and no such unrelated counterclaim or defense shall be interposed or asserted by Mortgagor in any action or proceeding brought by any such assignee under such Loan Document. Any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Mortgagor.

36. Voluntary Agreement. MORTGAGOR REPRESENTS AND WARRANTS THAT IT IS FULLY AWARE OF THE TERMS CONTAINED IN THE LOAN DOCUMENTS AND THAT IT HAS VOLUNTARILY AND WITHOUT COERCION OR DURESS OF ANY KIND ENTERED INTO THE LOAN AND THE LOAN DOCUMENTS.

37. Waiver. Mortgagor hereby waives and releases all errors, defects and imperfections in any proceedings instituted by Mortgagee under the Note, as well as all benefit that might accrue to Mortgagor by virtue of any present or future laws exempting any property, real or personal, or any part of the proceeds arising from any sale of such property, from attachment, levy, or sale under execution, or providing for any stay of execution, exemption from civil process, or extensions of time for payment.

38. Governing Law. THIS MORTGAGE SHALL BE GOVERNED AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAW OF THE STATE IN WHICH THE LAND IS LOCATED (THE "STATE") WITHOUT GIVING EFFECT TO THE CONFLICTS-OF-LAW RULES AND PRINCIPLES OF THE STATE.

39. Captions. The captions preceding the text of the sections or subsections of this Mortgage are inserted only for convenience of reference and shall not constitute a part of this Mortgage, nor shall they in any way affect its meaning, construction or effect.

40. Taxpayer Federal I.D. Number. In accordance with the requirements of Section

6050J of the Internal Revenue Code, as amended (the "Tax Code"), Mortgagor hereby represents and warrants to Mortgagee that Mortgagor's tax identification number for federal tax reporting purposes is 20-5969159 and Mortgagor agrees to cooperate with Mortgagee in supplying such information and executing such documentation as Mortgagee reasonably requires to comply with the provisions of Section 6050J of the Code.

41. True Copy. Mortgagor acknowledges receipt of a true copy of this Mortgage without charge.

42. Interest After Default. If any payment due hereunder or under the Note is not paid when due, either at stated or accelerated maturity or pursuant to any of the terms hereof, then and in such event, the Mortgagor shall pay interest thereon from and after the date on which such payment first becomes due at the default interest rate provided for in the Note and such interest shall be due and payable, on demand, at such rate until the entire amount due is paid to the Mortgagee, whether or not any action shall have been taken or proceeding commenced to recover the same or to foreclose this Mortgage. Nothing in this Section or in any other provision of this Mortgage shall constitute an extension of the time of payment of the Debt. After entry of a judgment on any of the Loan Documents or a judgment in mortgage foreclosure hereunder, interest shall continue to accrue under the Note and this Mortgage at the rates set forth in the Note. This Mortgage shall not, solely for purposes of determining interest payable under the Note, merge with any judgment on any Loan Document or a judgment in mortgage foreclosure under this Mortgage.

43. Additional Advances and Disbursements: Costs of Enforcement. If any Event of Default exists, Mortgagee shall have the right, but not the obligation, to cure such Event of Default in the name and on behalf of Mortgagor. All sums advanced and expenses incurred at any time by Mortgagee under this Section, or otherwise under this Mortgage or any of the other Loan Documents or applicable law, shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at the Default Interest Rate, and all such sums, together with interest thereon, shall be secured by this Mortgage.

45. Definitions; Interpretation. Whenever used in this Mortgage, unless the context clearly indicates a contrary intent:

(a) The word "Debt" shall mean the following items secured by this Mortgage:

(i) the payment of the indebtedness evidenced by the Note in lawful money of the United States of America;

(ii) the payment of interest, default interest, late charges and other sums, as provided in the Note, this Mortgage or the other Loan Documents (as hereinafter defined);

(iii) the payment of all other moneys agreed or provided to be paid by Mortgagor in the Note, this Mortgage or the other Loan Documents;

(iv) the payment of all sums advanced pursuant to this Mortgage to protect and preserve the Mortgaged Property and the lien and the security interest created hereby; and

(v) the payment of all sums advanced, costs and expenses incurred, and processing fees charged by Mortgagee in connection with the Loan or any part thereof, any renewal, extension, or change of or substitution for the Loan or any part thereof, or the acquisition or perfection of the security therefor, whether made or incurred at the request of Mortgagor or Mortgagee.

(b) The word "entity" shall mean individual, corporation, partnership or unincorporated association;

(c) The word "Loan" shall mean the loan made by Mortgagee to Mortgagor in the original principal amount of \$25,215,840.00 evidenced by the Note.

(d) The use of any gender shall include all genders;

(e) The singular number shall include the plural and the plural the singular as the context may require.

46. Successors and Assigns. This Mortgage inures to the benefit of Mortgagee and binds Mortgagor, and their respective successors and assigns, and the words "Mortgagee" and "Mortgagor" whenever occurring herein shall be deemed to include such respective successors and assigns. Mortgagee may assign or otherwise transfer this Mortgage and any or all of the Loan Documents to any other person, and such other person shall thereupon become vested with all of the benefits in respect thereof granted to Mortgagee herein or otherwise.

47. Rules of Construction. This Mortgage is governed by and hereby incorporates by reference the Rules of Construction contained in the Loan Agreement, which shall apply with the same effect as though fully set forth herein.

The proceeds of the Loan have been applied on the purchase price of the Mortgaged Property described herein, conveyed to Mortgagor simultaneously herewith.

[SIGNATURE APPEARS ON FOLLOWING PAGE]

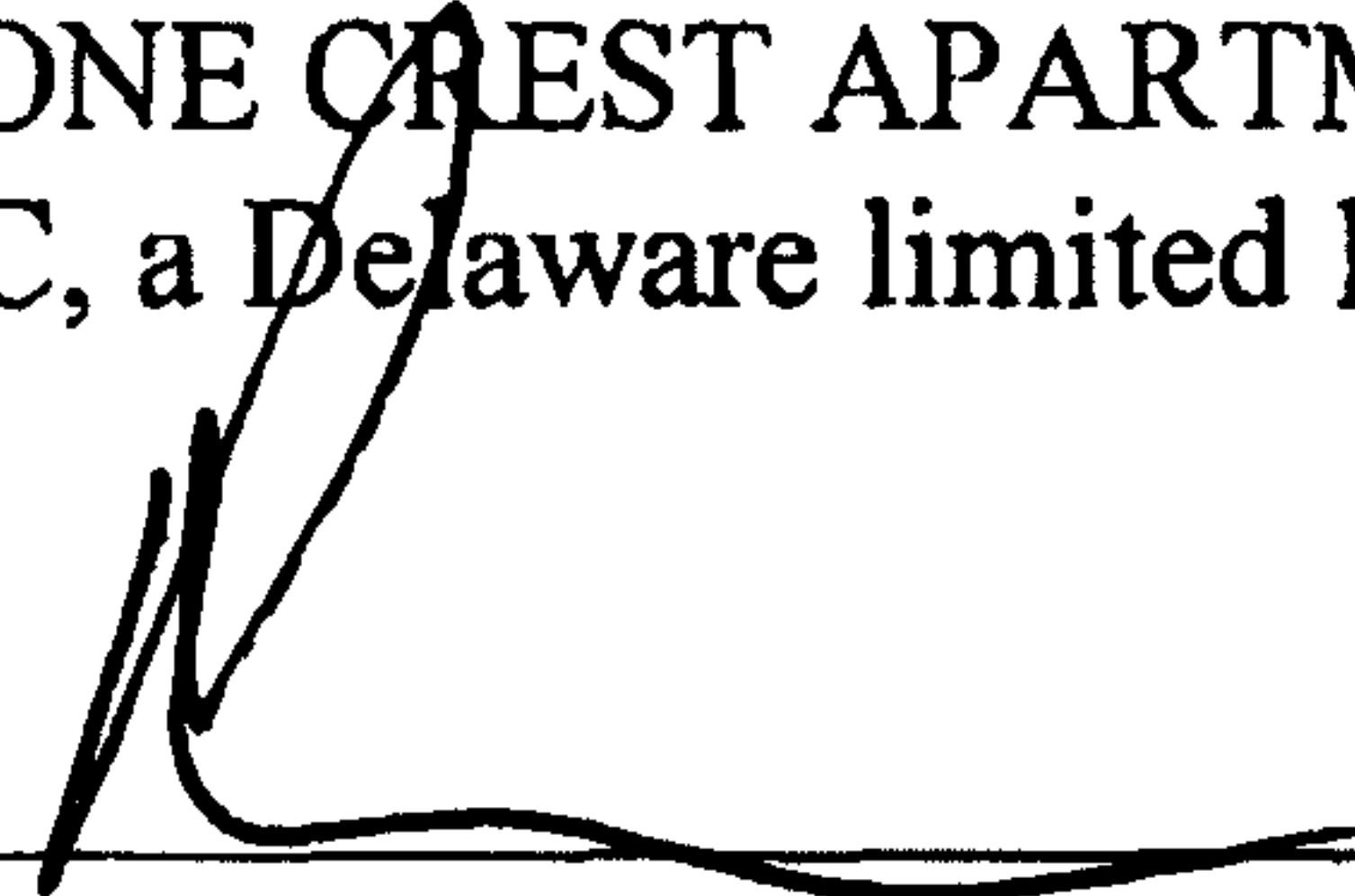


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Shelby Cnty Judge of Probate, AL
02/27/2007 03:29:55PM FILED/CERT

Mortgagor has duly executed this Mortgage under seal to be effective as of the day and year first above written.

MORTGAGOR:

STONE CREST APARTMENTS ALABAMA,
LLC, a Delaware limited liability company

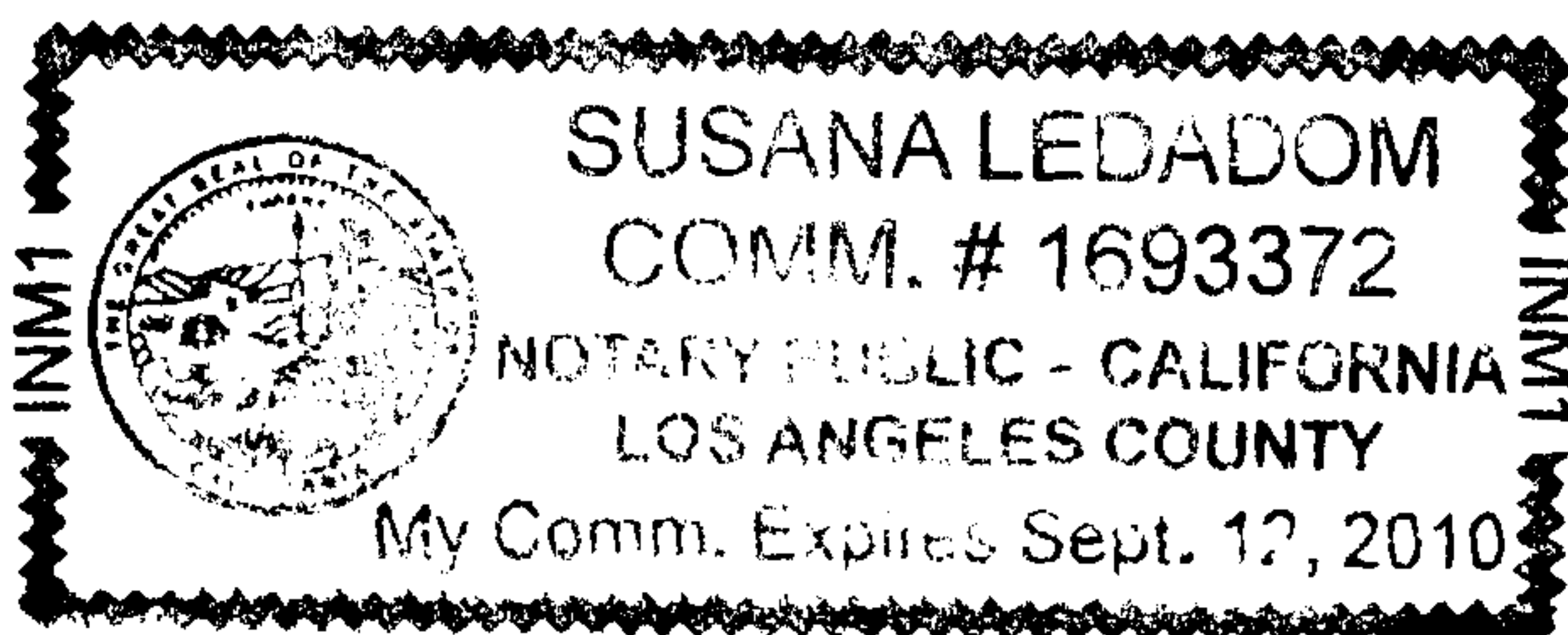
By:  [SEAL]
Name: Richard J. Nathan
Title: President

STATE OF California)

COUNTY OF Los Angeles)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Richard J. Nathan, whose name as President of STONE CREST APARTMENTS ALABAMA, LLC, a Delaware limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such President and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this 14th day of February, 2007.



Notary Public

My Commission Expires: 9/12/10

[Affix Seal]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF California)SS
COUNTY OF LOS ANGELES)

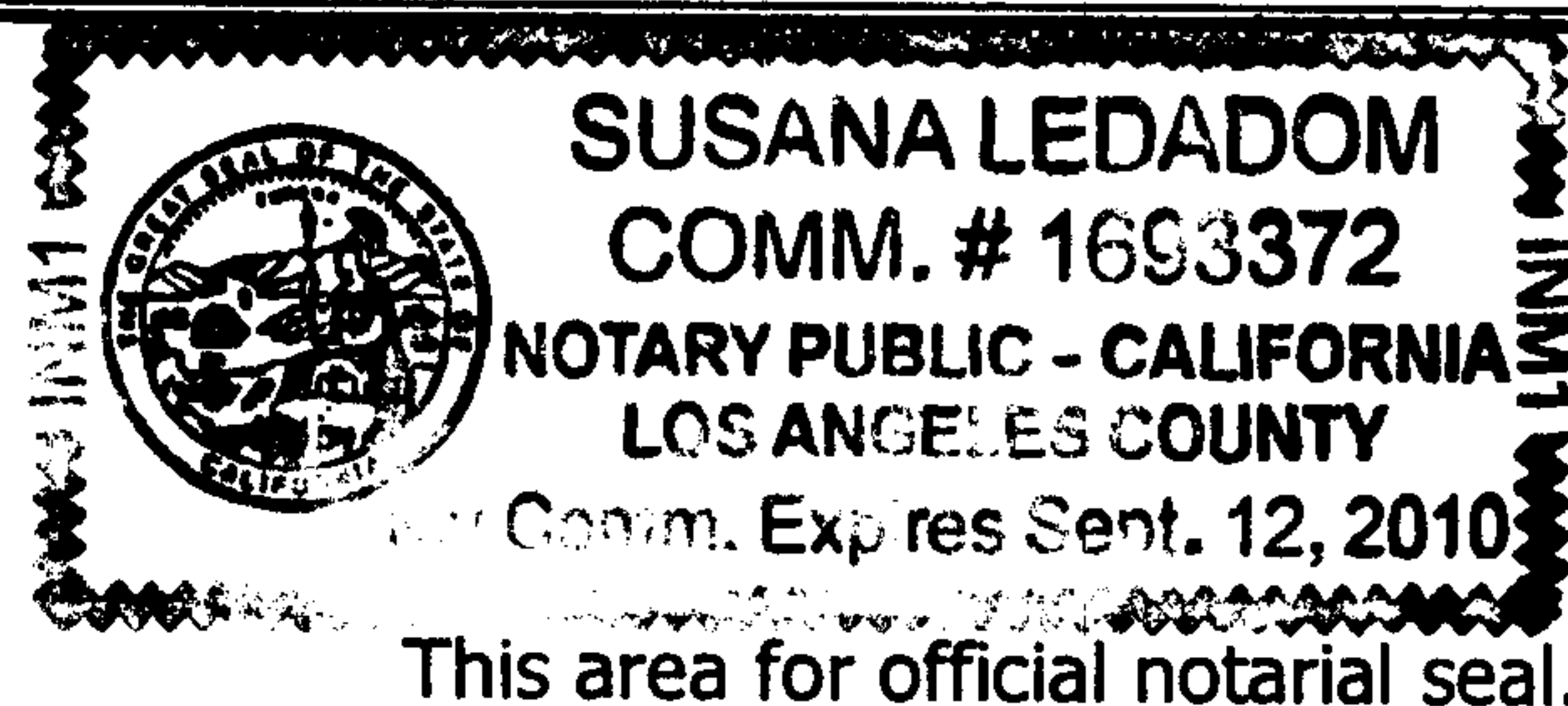
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APN No:

On FEBRUARY 14, 2007 before me, SUSANA LEDADOM, Notary Public, personally appeared RICHARD J. NATHAN

personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~) and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____



OPTIONAL SECTION CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER(S) TITLE(S)
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

SIGNER IS REPRESENTING:

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: _____

NUMBER OF PAGES _____

DATE OF DOCUMENT _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

20070227000089700 32/33 \$37930.85
Shelby Cnty Judge of Probate, AL
02/27/2007 03:29:55PM FILED/CERT

EXHIBIT "A"

[LEGAL DESCRIPTION OF THE LAND]

SEE ATTACHED



20070227000089700 33/33 \$37930.85
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LEGAL DESCRIPTION

PARCEL I:

Commence at the Northwest corner of the Southeast quarter of the Northeast quarter of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama: Thence run South along the West line of said quarter-quarter section for a distance of 929.63 feet to the point of beginning. From said point of beginning, continue South along the last described course for a distance of 263.72 feet; thence turn an angle to the left of 91 degrees 03 minutes 21 seconds and leaving said West line run in an Easterly direction for a distance of 672.12 feet; thence turn an angle to the left of 88 degrees 46 minutes 58 seconds and run in a Northerly direction for a distance of 263.72 feet; thence turn an angle to the left of 91 degrees 13 minutes 18 seconds and run in a Westerly direction for a distance of 672.86 feet to the point of beginning of the herein described parcel of land.

PARCEL II:

Commence at the Northwest corner of the Southeast quarter of the Northeast quarter of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama: Thence run South along the West line of said quarter-quarter section for a distance of 1193.35 feet to the point of beginning. From said point of beginning, continue South along the last described course for a distance of 792.25 feet; thence turn an angle to the left of 90 degrees 59 minutes 46 seconds and leaving said West line run in an Easterly direction for a distance of 669.66 feet; thence turn an angle to the left of 88 degrees 52 minutes 46 seconds and run in a Northerly direction for a distance of 793.47 feet; thence turn an angle to the left of 91 degrees 13 minutes 02 seconds and run in a Westerly direction for a distance of 672.12 feet to the point of beginning of the herein described parcel of land.

PARCEL III:

Commence at the Northwest corner of the Southeast quarter of the Northeast quarter of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama: Thence run South along the West line of said quarter-quarter section and the West line of the Northeast quarter of the Southeast quarter of said Section 5 for a distance of 1985.60 feet to the point of beginning. From said point of beginning, continue South along the described course for a distance of 663.95 feet to the Southwest corner of the Northeast quarter of the Southeast quarter of said Section 5; thence turn an angle to the left of 91 degrees 04 minutes 32 seconds and leaving said West line run in an Easterly direction for a distance of 668.24 feet; thence turn an angle to the left of 88 degrees 47 minutes 59 seconds and run in a Northerly direction for a distance of 663.05 feet; thence turn an angle to the left of 91 degrees 07 minutes 14 seconds and run in a Westerly direction for a distance of 669.66 feet to the point of beginning of the herein described parcel of land. Together with those certain easements recorded in Shelby Instrument # 1996-17259 and Shelby Instrument # 1996-17260.

PARCEL IV:

Non-Exclusive easement for the benefit of Parcels I, II & III for the purpose of slope, drainage and access, as created by those certain easement agreements recorded in Shelby Instrument Number 1996-17259 and Shelby Instrument Number 1996-17260, over, under and across the property described herein.