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Shelby Cnty Judge of Probate, AL
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Prepared by and when recorded return to:

Karen D. Dike
Ameritas Life Insurance Corp.
5900 O Street
Lincoln, Nebraska 68510

**LEASEHOLD REAL ESTATE MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF RENTS FINANCING STATEMENT, AND FIXTURE FILING**

Property Address: 136 Marketplace Circle
Calera, Alabama 35040

Assessor's Parcel Number: 18-345-03-017

Date: February 21, 2014

Borrower: Calera Crossings, LLC
an Alabama limited liability company

Borrower's Mailing Address: 41 West Interstate 65 Service Road North
Mobile, Alabama 36608

Lender: Ameritas Life Insurance Corp.

Lender's Mailing Address: 5900 O Street
Lincoln, Nebraska 68510

Lender: The Union Central Life Insurance Company

Lender's Mailing Address: 1876 Waycross Road
Cincinnati, Ohio 45240

THIS LEASEHOLD REAL ESTATE MORTGAGE, Security Agreement, Assignment of Rents and Financing Statement ("Mortgage") is made as of February 21, 2014, by Calera Crossings, LLC, an Alabama limited liability company ("Borrower" or "Mortgagor") in favor of Ameritas Life Insurance Corp., a Nebraska corporation and The Union Central Life Insurance Company, a Nebraska corporation (collectively "Lender" or "Mortgagee"). The mailing addresses of Borrower and Lender are set forth above.

IT IS HEREBY AGREED:

That Borrower irrevocably grants, bargains, sells, transfers, conveys and assigns, unto Lender, its successors and assigns, subject to the terms and conditions of this Mortgage, its leasehold interest in the real estate located in the County of Shelby, State of Alabama (the "Real Estate") described on Exhibit A attached hereto and by this reference made a part hereof, together with all interest which Borrower now has or may hereafter acquire in and to said Real Estate and in and to:

- (a) All oil, gas and mineral rights, all appurtenances, reversions, remainders, water, water stock and water rights and water right applications, pumps and pumping plants, pipes, flumes and ditches thereunto appertaining, all rights to the use of water as well as all rights in ditches for the irrigation of said Real Estate, and all shares of stock evidencing such rights, together with any and all appurtenances to the Real Estate, including without limitation, all development rights and credits and/or air rights;
- (b) All easements and rights of way appurtenant thereto and all of the estate, right, title, interest, claim and demand whatsoever of Borrower in the Real Estate, either at law or in equity, now or hereafter acquired;
- (c) All structures, buildings and improvements of every kind and description now or at any time hereafter located or placed on the Real Estate (the "Improvements");
- (d) All machinery, appliances, apparatus, equipment and fixtures now or hereafter located in, upon or under the Real Estate or the Improvements, or any part thereof, and used or usable in connection with any present or future operation thereof, and all additions thereto and replacements therefor (the "Fixtures");

Borrower agrees that Fixtures shall include all articles of personal property, furniture and furnishings which are so related to the Real Estate such that an interest arises in them under the real estate laws of the State of Alabama, including, without limiting the generality of the foregoing: all electric wiring, plumbing and heating fixtures, appliances and equipment for heating, lighting, refrigeration, air-conditioning and fire fighting, screen doors, screens, venetian blinds, alarm systems, safety and life support systems, stoves, ovens, dishwashers, carpeting and other floor coverings, and all other equipment now or hereafter installed in or upon said premises by Borrower and used or for use therein or thereon, it being mutually agreed that all of the aforesaid property owned by Borrower and placed on the Real Estate shall be deemed to be Fixtures, a part of the Real Estate covered by this Mortgage to the extent permitted by law; and as to the balance of said property, this Mortgage shall be deemed to be a Security Agreement between Borrower and Lender for the purpose of creating a security interest in said property in favor of Lender pursuant to the terms of Paragraph 15 below, all of which property, whether real or personal, shall secure the performance of Borrower's obligations hereunder and under the Promissory Note as hereinafter defined; provided, however, that if Borrower enters into a separate Security Agreement with Lender relating to any of said property, the terms thereof shall govern the rights and remedies of Lender with regard to the property covered thereby; provided, however, that trade fixtures or other personal property of any tenant now or hereafter installed shall not be included in this provision and shall not be affected hereby. This Mortgage shall be self-operative with respect to such personal property, but Borrower agrees to execute and deliver on demand such security agreements, financing

statements and other instruments as Lender may request in order to impose the lien hereof more specifically upon any of such property;

- (e) All articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including, without limitation, all furniture and furnishings, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Real Estate or the Improvements, or any portion thereof, and owned by the Borrower or in which Borrower now has or hereafter acquires an interest (the "Personal Property");
- (f) All of the rents, deposits, royalties, issues and profits (the "Rents and Profits") of the Real Estate and the Improvements, or arising from the use or enjoyment of all or any portion thereof or from any lease, license, concession, occupancy agreement or other agreement pertaining thereto (the "Leases"), and all right, title and interest of Borrower in and to all Leases of the Real Estate or of the Improvements now or hereafter entered into and all right, title and interest of Borrower thereunder, including, without limitation, cash or securities deposited thereunder to secure performance by tenants, lessees or licensees, as applicable, of their obligation thereunder;
- (g) All building materials and supplies now or hereafter placed on the Real Estate or in the Improvements;
- (h) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and
- (i) All other or greater rights and interests of every nature in the Real Estate, the Improvements, the Fixtures and the Personal Property and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Borrower.

The property so conveyed hereunder is hereinafter collectively referred to as the "Property".

TO HAVE AND TO HOLD, the Property unto Lender, its successors and assigns, FOREVER.

FOR THE PURPOSE OF SECURING:

- (a) Payment of the Principal sum of Six Million Two Hundred Thousand and No/100 Dollars (\$6,200,000.00), evidenced by two (2) separate Promissory Notes, one Note in the amount of Three Million One Hundred Thousand and No/100 Dollars (\$3,100,000.00) payable to Ameritas Life Insurance Corp. and one Note in the amount of Three Million One Hundred Thousand and No/100 Dollars (\$3,100,000.00) payable to The Union Central Life Insurance Company, dated of even date herewith, issued by Borrower to Lender, together with all interest, accrued or otherwise, and expenses (including reasonable attorneys' fees) due thereunder and any extensions, modifications, renewals or replacements thereof (collectively hereinafter referred to as the "Promissory Note"). The interest rate, payment terms and balance due with respect to the loan described herein may be indexed, adjusted, renewed or renegotiated in accordance with the terms of the Promissory Note and/or on account of any extensions or renewals of the Promissory Note;

- (b) Payment of late charges, prepayment charges and charges calculated on the same basis as prepayment charges upon acceleration of the indebtedness secured hereby;
- (c) Payment of all fees and charges of Lender set forth herein;
- (d) Payment of all obligations incurred and all monies expended or advanced by Lender pursuant to the terms hereof or contained in the Promissory Note, in a separate Assignment of Rents and Leases or Security Agreement and any other instrument now or hereafter evidencing or securing the indebtedness evidenced by the Promissory Note (all of which are collectively hereinafter called the "Security Documents"), to preserve and protect the Property (Items (a) through (d) collectively sometimes herein, the "Debt"); and
- (e) Performance, discharge of and compliance with every obligation, covenant and agreement of Borrower incorporated by reference or contained herein, or contained in the Security Documents (collectively sometimes herein, the 'Obligations).

Notwithstanding any terms in this Mortgage to the contrary, this Mortgage shall not be deemed to secure that certain Environmental Indemnity of even date herewith executed by Borrower, which does not and shall not constitute additional security for the loan secured hereby.

TO PROTECT THE SECURITY OF THIS MORTGAGE, BORROWER COVENANTS:

1. Title:

That it is lawfully seized and possessed of a good and indefeasible title and estate to a leasehold interest in the Property, subject only to the "Permitted Exceptions" shown on Exhibit B attached hereto and by this reference incorporated herein; that it will forever warrant and defend the title thereto against the claims and demands of all persons whosoever; and that it will, at its expense, maintain and preserve the lien of this Mortgage as a first and paramount lien upon the Property.

2. Maintenance and Leases:

- (a) Subject to casualty and/or condemnation, to maintain the Property in its present condition and repair; to complete or restore promptly and in good workmanlike manner any building or other Improvements which may be constructed, damaged or destroyed thereon, and to pay, when due, all claims for labor performed and materials furnished therefor and for any alterations thereof; to comply with the provisions of all covenants, conditions and restrictions, if any, affecting the Property; not to remove, demolish or materially alter any building or other Improvements, or the character or use thereof at any time; not to drill or extract nor to permit the drilling for or extraction of oil, gas or other hydrocarbon substances or any mineral of any kind unless the written consent of Lender is first had and obtained; not to commit or permit any waste thereof or any act upon the Property in violation of law; to do all other acts in a timely and proper manner which from the character or use of the Property may be reasonably necessary to protect and preserve said security, the specific enumerations herein not excluding the general, and to keep within the Improvements all Fixtures and all Personal Property originally installed or thereafter placed in the Improvements except for the purpose of replacing such Fixtures or Personal Property with Fixtures or Personal Property having fair value, both physical and economic, of the Fixtures or Personal Property so removed.

- (b) To faithfully perform all of the covenants of the lessor or landlord under any and all present and future Leases affecting the Property, and neither do nor neglect to do, nor permit to be done, anything which may diminish or impair the value of all such Leases or the Rents and Profits provided for in such Leases, or the interest of the lessor or of the Lender therein or thereunder.

3. Insurance:

- (a) To keep the Improvements now existing or hereafter erected on the Property continuously insured by a Special Causes of Loss policy with extended coverage, including insurance coverage for loss or damage by windstorm, hail, plate glass, ordinance and law, earthquake (if required by Lender), flood (if the Property is in an area which is considered a flood zone area by the U.S. Department of Housing and Urban Development or any other applicable agency), boiler and machinery or other equipment breakdown and such other insurance protection as may from time to time be reasonably requested by Lender. In no event shall such special form hazard insurance have coverage less than one hundred percent (100%) of the insurable replacement cost of the Improvements (as determined by an insurance appraiser acceptable to Lender), less foundations and footings. Agreed value endorsements for replacement cost coverage shall be updated each year, and Lender shall be provided with notice each year that such policy or policies have been renewed for the following year. To obtain and keep in effect insurance against loss of rental income for 100% occupancy in an amount equal to any period of time during which rent may abate but in no instance for less than twelve (12) months' rental income. Such rent loss policy shall include a Lender's Loss Payable endorsement.
- (b) To obtain and keep in effect so long as any amount remains owing under the Promissory Note or the Security Documents comprehensive general public liability insurance in an amount of not less than \$2,000,000 per general aggregate and \$1,000,000 for any one accident or occurrence in, upon or adjacent to the Property. Such policy shall list Lender as an additional insured under the liability coverage.
- (c) That said insurance policies shall be endorsed with a standard noncontributory mortgagee's clause in favor of Lender; shall name as insured both Borrower and Lender; shall be issued by companies and shall be in such forms satisfactory to Lender; shall provide that such policies will not be cancelled or materially amended without at least thirty (30) days' prior written notice to Lender; and shall be delivered to, and remain in possession of, Lender as further security for the faithful performance of these obligations, which delivery shall constitute an assignment by Borrower to Lender to all rights thereunder, including all return premiums. Borrower shall deliver to Lender original copies of all policies of insurance required hereby and original certificates or policies renewing or extending any expiring insurance with a receipt showing premiums paid at least thirty (30) days before expiration. If Borrower fails to maintain such policies, Lender may procure such insurance as it may elect and may make payment of premiums thereon, which payment is repayable on demand. Lender shall not be responsible for obtaining or maintaining such insurance. Lender, from time to time, may furnish to any insurance agency or company, or any other person, any information contained in or extracted from any insurance policy theretofore delivered to Lender pursuant hereto, and any information concerning the loan secured hereby. In no event and whether or not an Event of Default hereunder has occurred shall Lender, by the fact of approving, accepting or obtaining such insurance, incur any liability for the amount of such insurance, the form or legal

sufficiency of insurance contracts, solvency of insurers, or payment of losses by insurers; and Borrower hereby expressly assumes full responsibility therefor and liability, if any, thereunder. In the event of loss, Borrower shall give immediate written notice to Lender; and Lender may, but is not obligated to, make proof of loss if not made promptly by Borrower.

- (d) In the event of loss, any insurance proceeds payable by reason of such loss shall be paid to Lender (and not jointly to Lender and Borrower); and if such loss is a Major Damage (as defined below), proceeds shall be applied at Lender's option to reduce the indebtedness hereby secured (and to apply such proceeds to the payment of interest, late charges, prepayment premiums or other amounts due from Borrower under the Promissory Note, this Mortgage or any other Security Document), whether then matured or to mature in the future, in such order and manner as Lender may elect; or Lender may permit Borrower to use said proceeds to repair or replace all Improvements damaged or destroyed and covered by said policy, in which case Borrower agrees to repair and rebuild said Improvements without undue delay, holding Lender harmless for, from and against any and all liabilities, claims and liens relating to such repairs or replacements. Should Lender elect to apply the proceeds to the indebtedness, such application shall not be deemed a voluntary prepayment for purposes of the prepayment fee and prepayment premium set forth in the Promissory Note. Borrower agrees that a Major Damage is any loss (i) in excess of twenty-five percent (25%) of the insurable replacement cost of the Improvements or (ii) which results in the termination of any Lease or Rents and Profits constituting twenty-five percent (25%) or more of the rental income of the Property (after appropriate credit for the proceeds of loss of rental income insurance required hereby) and shall constitute a material impairment of Lender's security for the loan secured hereby, but shall not constitute an Event of Default.

Notwithstanding the foregoing, in case of partial destruction, which is not a Major Damage insurance proceeds will be made available for repair and restoration of the Property, provided:

- (i) Such destruction occurs at least one (1) year prior to the Maturity Date of the Promissory Note;
 - (ii) The amount of proceeds together with the Borrower's capital are sufficient to repair the security;
 - (iii) The Borrower provides a certificate (with appropriate supporting documentation from a contractor acceptable to Lender) that such repair and restoration can be completed within one (1) year;
 - (iv) No Event of Default is continuing and no material adverse change as to the financial condition of the Borrower has occurred; and
 - (v) After repair, the loan-to-value ratio is less than Seventy-five percent (75%) as reasonably determined by Lender; and
 - (vi) The Property has the same income producing potential as before the destruction.
- (e) If Lender applies all or any portion of insurance proceeds to repair or rebuild Improvements, the insurance proceeds required for such rebuilding or repairing shall be received by Lender and held by it in and deposited in an escrow account

without payment or allowance of interest. Prior to the commencement of such rebuilding or repair, Borrower shall, at its expense, prepare all plans and specifications necessary for such work and enter into a bonded fixed price construction contract with a contractor acceptable to Lender. Borrower shall promptly deposit in the escrow account an amount equal to the difference between the insurance proceeds deposited with Lender and the total contract price for such rebuilding or repair; and disbursement shall be made (not more frequently than once a month) from said account for such rebuilding or repair in accordance with a disbursement schedule, and subject to other terms and conditions acceptable to Lender, provided that such disbursements shall be charged first against funds deposited in said account by Borrower, and second, after such funds are exhausted, against the insurance proceeds deposited therein. Final payment shall be made upon Lender's receipt of a certificate of occupancy or other certificate issued by an architect, contractor satisfactory to Lender, or an appropriate governmental official, that such repair or replacement has been completed substantially in accordance with plans, specifications and applicable laws and that the Improvements may legally be used or occupied. Lender shall be permitted to withhold any installment in escrow should Lender determine that the funds remaining in escrow are insufficient to pay for the completion of the repair or restoration. All administrative costs incurred in connection with replacement and repair of the Property shall be paid by Borrower.

4. Taxes and Other Sums Due:

- (a) To pay, satisfy and discharge, at least ten (10) days before delinquency, all general and special taxes and assessments affecting the Property, including, but not limited to, any tax assessed on the value of the Property or related to an Improvement or benefit provided to the Property or arising from the production of income attributed to the Property, whether it be in accordance with the law as it presently exists or to yet be enacted. As used herein, the term "taxes and assessments affecting the Property" shall include any form of assessment, possessory interest tax, license fee, license tax, business license fee, business license tax, commercial rental tax, levy, charge, penalty, tax or similar imposition imposed by an authority having the direct power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement or special assessment district thereof, as against any legal or equitable interest of Borrower in the Property, including, but not limited to, the following:
 - (i) Any assessment, tax, fee, levy or charge in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax. It is the intention of Borrower and Lender that all such new and increased assessments, taxes, fees, levies and charges and all similar assessments, taxes, fees, levies and charges be included within the definition of taxes and assessments affecting the Property for the purposes of this Mortgage;
 - (ii) Any assessment, tax, fee, levy or charge allocable to the operation of or measured by the area of the Property, including, without limitation, any gross income tax or excise tax levied in lieu of real property taxes by the state, city or federal government, or any political subdivision thereof, with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use of or occupancy of the Property, or any portion thereof; and

- (iii) Any assessment, tax, fee, levy or charge upon this transaction or any document creating or transferring any interest or an estate in the Property.
- (b) To pay, satisfy and discharge the following amounts, in no event later than the date such amounts become due:
 - (i) All encumbrances, charges and liens, with interest, on the Property, or any part thereof, which are, or appear to Lender to be prior to or superior hereto;
 - (ii) Upon fifteen (15) days' notice, such other charges as the Lender may deem reasonable for services rendered by Lender and furnished at the request of Borrower or any successor in interest to Borrower;
 - (iii) If the Property includes a leasehold estate, all payments and obligations required of the Borrower, or his successor in interest, under the terms of the instrument or instruments creating such leasehold, Borrower hereby agreeing not to amend, change, or modify Borrower's leasehold interest or the terms of which Borrower has such leasehold interest, or to agree to do so, without the written consent of Lender being first obtained; and
 - (iv) All payments and monetary obligations required of the owner of the Property under any declaration of covenants, conditions and restrictions pertaining to the Property or any modification thereof.
- (c) Should Borrower fail to make any such payment, Lender, without contesting the validity or amount, may elect to make or advance such payment, together with any costs, expenses, fees or charges relating thereto, including employing counsel and paying reasonable fees of counsel. Borrower agrees to notify Lender immediately upon receipt by Borrower of notice of any increase in the assessed value of the Property and agrees that at its option, Lender, in the name of Borrower, may contest by appropriate proceedings such increase in assessment and may appear in and prosecute or defend any action or proceeding that may affect the priority of this Mortgage or the security of Lender hereunder; and Borrower will pay all costs, expenses (including costs of searching title) and attorneys' fees incurred in such action or proceeding at Borrower's sole cost and expense. All amounts, paid, suffered or incurred by Lender in exercising the authority herein granted, shall be secured hereby, shall be a lien on the Property, shall be due and payable by Borrower to Lender without demand and shall bear interest at the Default Rate set forth in the Promissory Note from the date incurred, suffered or advanced, until paid.

In the event of the passage of any law imposing a tax on this Mortgage or the interest payable under the Note, the holder of this Mortgage and of the obligations which it secures shall have the right to declare all sums secured hereby as due as of a date to be specified by not less than thirty (30) days' written notice to be given to Borrower by Lender; provided, however, that such election shall be ineffective if Borrower is permitted by law to pay the whole of such tax in addition to all other payments required hereunder and if, prior to such specified date, Borrower does pay such tax and agrees to pay any such tax when thereafter levied or assessed against the Property.

- (d) Notwithstanding the foregoing, Borrower shall, together with, and in addition to the monthly payment of principal and/or interest, and on the same date on which the principal and/or interest is payable under the terms of the Promissory Note

secured hereby, deposit with Lender, to be held in an account (without interest for the benefit of Borrower), a sum equal to one-twelfth (1/12) of the yearly taxes and assessments which may be levied against the Property, ground rents, if any, plus one-twelfth (1/12) of the yearly premiums for insurance required to be maintained by Borrower under the terms hereof or as may otherwise reasonably be required by Lender. If the amount of funds held shall exceed, at any time, the amount deemed necessary by Lender to provide for the payment of taxes, assessments, ground rents and insurance premiums as they fall due, such excess shall be repaid to Borrower or credited to Borrower, as Lender may reasonably determine. If the amount of funds held shall not be sufficient at any time to pay taxes, assessments, ground rents and insurance premiums as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency promptly upon notice from Lender to Borrower requesting payment thereof. Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to the Borrower any funds held. All amounts paid under this paragraph are hereby assigned to Lender as additional security for the indebtedness secured hereby; and in the event of a default in the payment of any money or the performance of any covenant or obligation herein contained or secured hereby, then any deposits made by the Borrower under this paragraph may, at the option of Lender, be applied to the payment of principal, interest and/or other sums due hereunder or under the Promissory Note or any of the other Security Documents in lieu of being applied to any of the purposes in this paragraph previously stated. Upon any assignment of this Mortgage by Lender, any funds on hand shall be turned over to the assignee and any responsibility of the assignor with respect thereto shall terminate. Any interest earned on such funds shall be for the sole benefit of Lender. Lender shall not be a trustee of funds in said account and may commingle such funds with its general assets without any obligation to pay interest thereon or account for any earnings, income or interest on such funds.

5. Sums Advanced to Bear Interest:

Borrower agrees to pay immediately upon demand any sums advanced or paid by Lender under any clause or provision of this Mortgage. Any such sums, until so repaid, shall be secured hereby, shall bear interest from the date advanced or paid at the Default Rate as provided for in the Promissory Note and shall be secured by this Mortgage.

6. Assignment of Deposits:

That as further additional security, Borrower hereby transfers and assigns to Lender during continuance of these trusts, all right, title and interest to any and all monies deposited by Borrower or deposited on behalf of Borrower with any city, county, public body or agency, sanitary district, gas and/or electric company, telephone company and any other body or agency for the installation or to secure the installation of any utility by Borrower, pertaining to the Property.

7. Default Provisions:

Time is of the essence hereof. Upon the occurrence of any one of the following which is not cured within any applicable grace period (hereinafter an "Event of Default" or "Default"), the payment of all principal, interest and any other sums due in accordance with the terms of the Promissory Note or the Security Documents shall, at the option of the Lender, be accelerated and such principal, interest and other sums shall immediately be due and payable without notice or demand; and the Lender shall have the option to foreclose any and all liens securing the payment thereof; and Lender may pursue any or

all of the rights and remedies provided for in the Promissory Note, this Mortgage, or any one or more of the Security Documents, or otherwise available at law or in equity under the laws of the State of Alabama:

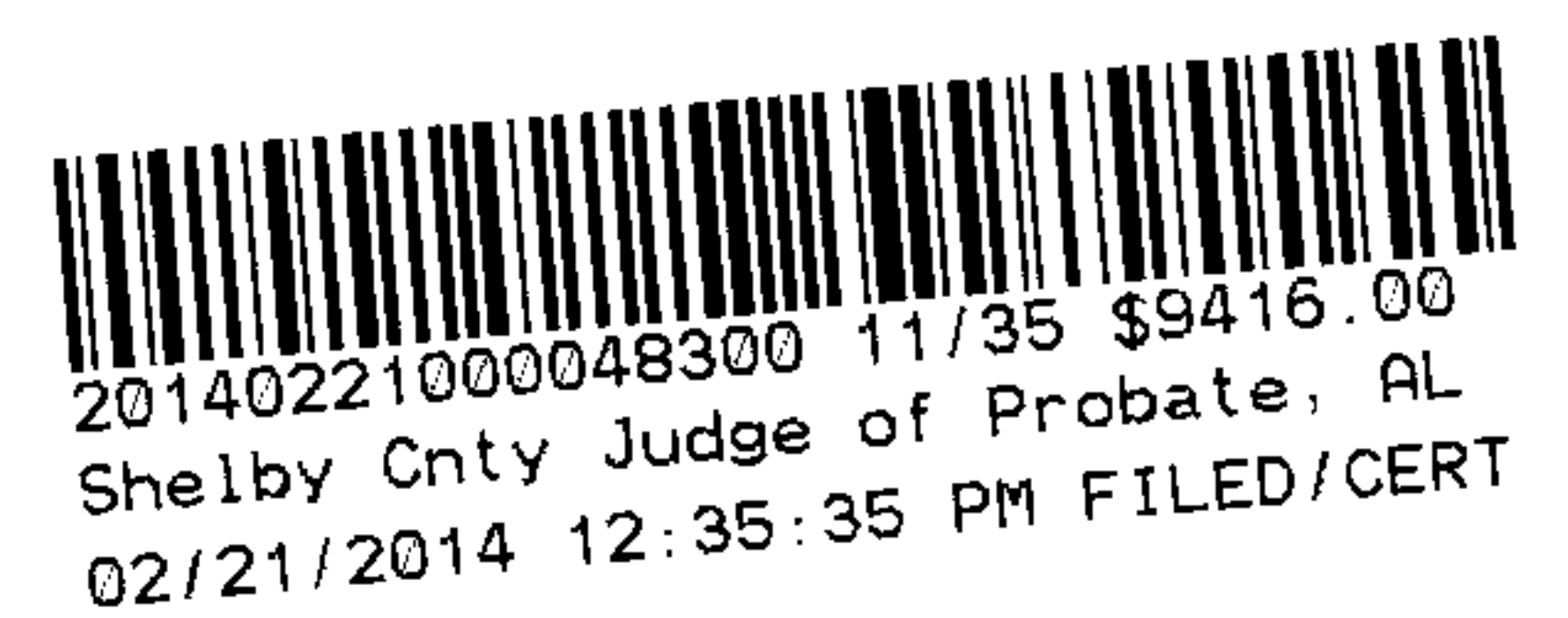
- (a) The Borrower fails to pay when due any portion of the Debt; or
- (b) The Borrower fails to perform any of the Obligations provided that Lender shall provide notice of any such default and Borrower shall have thirty (30) days in which to cure said non-monetary default, provided however, in the event Borrower cannot reasonably complete performance of the required action within said thirty (30) day period but commences to perform such action within said thirty (30) day period and thereafter diligently pursues such performance, then the period for performance will be extended by the period of time Lender reasonably determines as being necessary to complete performance of the required action before Lender further exercises its rights and remedies hereunder; or
- (c) Any warranties, representations or certifications made by Borrower to Lender are found to be materially false or misleading; or
- (d) The Borrower or any Guarantor of the indebtedness represented by the Promissory Note ("Guarantor") shall:
 - (i) Have an order for relief entered with respect to it under any law relating to bankruptcy, insolvency, reorganization or relief of debtors ("Bankruptcy Law");
 - (ii) Not pay, or admit in writing its inability to pay its debts generally as they become due;
 - (iii) Make an assignment for the benefit of its creditors;
 - (iv) Apply for, seek, consent to or acquiesce in the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it, or any substantial part of its property;
 - (v) Institute any proceedings seeking an order for relief under any Bankruptcy Law, seeking to adjudicate it a bankrupt or insolvent, seeking a dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it, or its debts, under any Bankruptcy Law, or failing to file an answer or other pleading denying the material allegations of any such proceeding filed against it (or if any creditor of Borrower shall do any of the foregoing) and such is not dismissed within sixty (60) days;
 - (vi) Take any action to authorize or effect any of the foregoing actions set forth in this Paragraph (d); or
 - (vii) Fail to contest, in good faith, any appointment or proceeding described in Paragraph (e) below; or
- (e) Without the application, approval or consent of the Borrower, a receiver, custodian, trustee, examiner, liquidator or similar official shall be appointed for the Borrower, or any Guarantor, or any substantial part of the property of either, or proceeding described in Paragraph (d)(v) shall be instituted against the Borrower, or any Guarantor, and such appointment continues undischarged or

such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days; or

- (f) If a final order, judgment or decree shall be entered against the Borrower, or any Guarantor, by a court of competent jurisdiction which, together with other outstanding orders, judgments and decrees against the Borrower, or any Guarantor, exceeds an aggregate of \$250,000 (exclusive of amounts insured against by adequate liability insurance policy), and shall continue in effect for any period of sixty (60) consecutive days without a stay of execution; or
- (g) Should the Borrower, or any successor in interest of the Borrower, voluntarily or involuntarily, sell, exchange, convey, transfer, contract to sell, lease with option to purchase, change the character or use of, or further encumber the Property or any other collateral covered by the Security Documents, or any part thereof, or any interest therein, except as therein permitted, without the prior written consent of the Lender of this Mortgage in each such instance first had and obtained; or
- (h) Should the Borrower be divested of title to the Property described in this Mortgage, or any part thereof, or any interest therein, either voluntarily or involuntarily, as a result of any condemnation proceedings, except where the proceeds of such proceedings are paid to the Lender; or
- (i) If legal action or other proceedings are instituted to enforce or foreclose any subordinate mortgage, deed of trust, or security interest or other lien or encumbrance of any kind upon the Property or any portion thereof.

8. Restriction On Transfer and Additional Financing:

- (a) The financial stability, managerial and operational ability, creditworthiness and business reputation of Borrower and of those persons having a direct or beneficial interest in Borrower, as well as the equity of Borrower in the Property and the projected cash flow from the Property to pay operating costs and debt service are a substantial and material consideration to Lender in its agreement to make the loan to Borrower which is evidenced by the Promissory Note and secured by this Mortgage. Therefore, in order to induce Lender to make the loan, Borrower agrees that without the prior written consent of Lender, which consent may be withheld for any or no reason, Borrower shall not:
 - (i) Voluntarily or involuntarily sell, exchange, convey, transfer, contract to sell or lease with option to purchase (collectively a "Transfer") all or any part of or interest in the Property or any other collateral covered by the Security Documents; or
 - (ii) Voluntarily or involuntarily further encumber the Property by any mortgage, deed of trust, assignment of rents or security interest, or otherwise subject all or any part of the Property to any lien or charge, contractual, statutory, by operation of law or otherwise (collectively an "Encumbrance"). Notwithstanding the foregoing, provided an Event of Default has not occurred, Borrower shall have the right to secure secondary financing, two times during the term of the loan, provided the aggregate amounts of the financing when compared to the market value of the Property does not cause the Property's combined loan-to-value ratio to exceed seventy percent (70%) and its combined debt service coverage ratio to fall below 1.30x. The basis for the combined loan-to-value ratio shall be the Promissory Note's then-current principal balance outstanding and the Property's current market value indicated by an



appraisal deemed acceptable by Lender in its reasonable discretion and subject to Lender's underwriting standards. Additionally, Lender must reasonably approve in writing all loan documents related to such secondary financing and Lender shall have the first right, but not the obligation to provide any secondary financing, or to consider an expansion construction loan,; in the event Lender opts not to provide secondary or additional construction financing then Lender will release the Phase III parcel provided Borrower pays down the existing mortgage, at par, in an amount equal to the appraised leasehold land value of the Phase III parcel as set forth in the construction loan appraisal for that parcel or

- (iii) If Borrower or any successor or assign of Borrower is a corporation, Transfer fifty percent (50%) or more of the issued and outstanding shares of any class of shares of Borrower or issue new shares equal to fifty percent (50%) or more of the issued and outstanding shares of any class of shares of Borrower; or
- (iv) If Borrower or any successor or assign of Borrower is a general or limited partnership or a joint venture, make any Transfer of any general partnership interest or joint venture interest of Borrower; or
- (v) If Borrower or any successor or assign of Borrower is a limited liability company, make any Transfer of a majority of the membership interests to a non-member; or
- (vi) Transfer or change the management of the Property to any person or entity other than Borrower; or
- (vii) Permit a Transfer of any or all of Guarantor's ownership interest in Borrower, if any; or
- (viii) Permit the Transfer of the controlling interest of Borrower.

Should Borrower receive knowledge, either actual or constructive, of any Transfer of or Encumbrance on the title to the Property, or any part thereof, or of any contract providing for any such Transfer or Encumbrance, Borrower shall immediately, upon obtaining such knowledge, notify Lender.

- (b) In the event that Borrower or any successor in interest of Borrower shall breach the covenants contained in Paragraph 8(a), all indebtedness secured by this Mortgage, irrespective of the maturity date thereof, shall, at the sole option of the Lender, become immediately due and payable without demand or notice.
- (c) Notwithstanding the foregoing, Borrower may exercise a one time right to sell the Property, subject to the Promissory Note and Security Documents, upon the following conditions:
 - (i) Lender's approval, in its sole discretion, of the buyer as the obligor under the Promissory Note and the Security Documents;
 - (ii) The buyer must assume all of the Borrower's obligations and liabilities under the Security Documents;
 - (iii) Thirty (30) days' written notice of the sale or transfer given to the Lender;

- (iv) Lender shall be furnished all information requested by Lender, regarding but not limited to, terms of the sale, financial and managerial experience information, including credit reports, on the buyer;
- (v) Immediately following the sale, no encumbrance, title exception, or lien not consented to by Lender shall exist on the Property, other than the "Permitted Exceptions" shown on Exhibit B and the mortgage of the Lender;
- (vi) The unpaid principal of the loan at the time of the sale shall not exceed Seventy-five percent (75%) of the sale price;
- (vii) All costs shall be paid by Borrower; and
- (viii) Payment of an underwriting fee equal to one percent (1%) of the outstanding loan principal at the time said approval is requested. Said fee shall be refunded in the event Lender does not approve the sale.

No such consent shall be considered by the Lender unless the appropriate fee is paid in advance; and no such consent shall be given unless the Borrower agrees, inter alia, immediately upon closing of the subject sale or transfer, to provide Lender with a copy of the deed or other instrument conveying title to the Property and with an assumption agreement from the transferee in form satisfactory to the Lender and its legal counsel. Upon the occurrence of a sale of the Property subject to the Promissory Note and Security Documents, as permitted by this Paragraph 8(c), Borrower shall be released from liability under the Promissory Note, this Mortgage and any other Security Documents to the extent such liability first arises or is incurred on or after the effective date of such sale .

- (d) If Lender consents to any Transfer or Encumbrance referred to in Paragraph 8(a), Borrower shall pay to Lender all costs, attorneys' fees and other expenses incurred by Lender in reviewing, negotiating, preparing, and recording documents in connection with any such Transfer or Encumbrance. Consent to any one such Transfer or Encumbrance shall not be deemed to be a waiver of the right to require consent to future or successive Transfers or Encumbrances. If consent should be given, any such Transfer or Encumbrance shall be subject to this Mortgage; and any transferee shall assume all obligations under the Promissory Note, this Mortgage and other Security Documents and agree to be bound by all provisions contained herein and therein. Except to the extent Borrower is released from liability upon of a sale of the Property subject to the Promissory Note and Security Documents as provided in Paragraph 8(c), any such assumption shall not, release Borrower or any Guarantor from liability under the Promissory Note, this Mortgage or any other of the Security Documents. This covenant shall run with the Property and shall remain in full force and effect until the indebtedness secured hereby is satisfied in full; and Lender may, without notice to Borrower, deal with such transferees with reference to the indebtedness or other obligations secured hereby in the same manner as with Borrower, without in any way altering or discharging Borrower's liability hereunder or the indebtedness secured hereby or the liability of any Guarantor with respect thereto.
- (e) Notwithstanding the foregoing, sale or transfer of the security or of any interest in the borrowing entity to immediate family members or a family trust for estate planning purposes shall not be considered a Transfer for purposes of this paragraph, provided Borrower notifies Lender and provides all documentation

reasonably required by Lender to properly document said transfer. For each such transfer, Borrower shall pay a processing fee in the amount of \$1,500.00.

9. Mechanics' and Materialmen's Liens:

It is understood and agreed that the lien of this Mortgage shall have priority at all times over any and all construction, furnishers', mechanics' and materialmen's liens. It is stipulated and agreed that no contract for labor or materials will be let by Borrower except with the express stipulation that the mechanics' and materialmen's liens therefor shall at all times be subordinate to the lien of this Mortgage.

10. Compliance With Laws, Etc.:

Borrower, their lessees or assigns, shall occupy and use the Property in accordance with all federal, state or local laws, statutes, ordinances, regulations or the like, including, but not limited to, the Americans with Disabilities Act of 1990, zoning and use laws, toxic waste laws and landlord-tenant statutes.

11. Litigation:

Borrower shall defend this Mortgage in any action or proceeding purporting to affect the Property, whether or not it affects the security hereof, or purporting to affect the rights or powers of Lender, and shall file and prosecute all necessary claims and actions to prevent or recover for any damage to or destruction of the Property; and Lender is hereby authorized, without obligation so to do, to commence, appear in or defend any such action, whether brought by or against Borrower or Lender, or with or without suit, to exercise or enforce any other right, remedy or power available or conferred hereunder, whether or not judgment be entered in any action or proceeding; and Borrower or Lender may appear to intervene in any action or proceeding, and retain counsel therein, and take such action therein, as either may be advised and may settle, compromise or pay the same or any other claims and, in the behalf and for any of said purposes, may expend and advance such sums of money as either may deem necessary. Whether or not Lender so appears or defends, Borrower on demand shall pay all costs and expenses of Lender, including costs of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Lender may appear by virtue of being made a party defendant or otherwise and irrespective of whether the interest of Lender in the Property is directly questioned by such action, including but not limited to partition, condemnation, reorganization, bankruptcy (whether Chapters 7, 11 or 13, or any other similar or successor statutes), probate and administrative proceedings, as well as any other proceeding where proof of claim is required to be filed or in which it becomes necessary to defend or uphold the terms of this Mortgage.

12. Condemnation:

In the event the Property or any part thereof is taken or damaged under the power of eminent domain, by condemnation or by sale in lieu thereof, the damages awarded, the proceeds for the taking of, the rights of action and the consideration for such acquisition, to the extent of the full amount of the remaining unpaid indebtedness secured hereunder, will be assigned to Lender and after deducting any expenses of Lender, including attorneys' fees, will be applied on account of the last maturing installments of such indebtedness. Lender may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any compromise or settlement, in connection with such condemnation, taking under the power of eminent domain or sale in lieu thereof. Borrower agrees to execute such further assignments of any compensation, award, damages, right of action and proceeds, as Lender may require.

Notwithstanding the preceding, in the case of a partial condemnation, which does not constitute a Major Damage (as defined in Paragraph 3 above) proceeds from such condemnation will be made available for repair and restoration of the Property provided:

- (a) Such condemnation occurs at least one (1) year prior to the Maturity Date of the Promissory Note; and
- (b) The amount of the condemnation proceeds together with Borrower's capital are sufficient to restore the Security; and
- (c) The Borrower provides a certificate with appropriate supporting documentation from a contractor acceptable to Lender that such repair or restoration can be completed within one (1) year; and
- (d) An Event of Default is not continuing no material adverse change as to the financial condition of the Borrower has occurred; and
- (e) After restoration, the loan-to-value ratio is less than Seventy-five percent (75%); and
- (f) The Property has the same income producing potential as before the condemnation.

If Lender agrees or is required hereunder to apply all or any portion of condemnation proceeds to repair or restore Improvements, disbursement of such proceeds shall be made in the manner described in sub-paragraph 3(e) hereof. In the event Lender should apply all or any portion of the condemnation proceeds to the indebtedness secured by this Mortgage, such application shall not be deemed a voluntary prepayment for purposes of the prepayment fee and prepayment premium set forth in the Promissory Note.

13. Defeasance:

This Mortgage is made upon the condition that if the Mortgagor timely pays to Lender, its successors and assigns, the Debt in full, so long as there exists no current Event of Default, then this conveyance shall be null and void; otherwise this Mortgage shall remain in full force and effect. Upon such payment and performance, Lender, its successors and assigns, shall file a cancellation of the Mortgage, and the recitals in such cancellation of any matters of fact shall be conclusive proof of the truthfulness thereof. Such cancellation shall automatically constitute the cancellation of the Assignment of Rents and Profits assigned to Lender in connection with this Mortgage.

14. Right to Collect and Receive Rents and Profits:

Borrower absolutely and irrevocably assigns to Lender the Rents and Profits of the Property, together with the immediate and continuing right to collect and receive the same, for the purposes and upon the terms set forth in this Mortgage, provided that the foregoing assignment shall not impose upon Lender any duty to produce rents from the Property and said assignment shall not cause Lender to be a "mortgagee in possession" for any purpose. The assignment of Rents and Profits and Leases from Borrower to Lender provided for above is absolute and irrevocable; however, notwithstanding any other provisions hereof, Lender hereby grants permission to Borrower to collect and retain the Rents and Profits of the Property as they become due and payable until an Event of Default shall occur under the Promissory Note, under this Mortgage or under any Security Document. Upon any such Event of Default, Lender may at any time

without notice, either in person, by agent or by receiver to be appointed by the court, and without regard to the adequacy of any security for the Debt, enter upon and take possession of the Property, or any part thereof, make, cancel, enforce or modify Leases; obtain and evict tenants, set or modify rents; in its own name sue or otherwise collect the Rents and Profits thereof, including those past due and unpaid; apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any of the Debt and in such order as Lender may determine; and except for such application, Lender shall not be liable to any person for the collection or non-collection of any Rents and Profits, for the failure to assert or enforce any of the foregoing rights, nor shall Lender be charged with any of the duties and obligations of a mortgagee in possession. The entering upon and taking possession of the Property, the collection of such Rents and Profits, the doing of other acts herein authorized, and the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done pursuant to such notice. The assignment of Rents and Profits described in this Paragraph 14 shall be deemed perfected, absolute and choate, upon the recording of this Mortgage. In the event of any conflict between the terms of this Paragraph 14 and the terms of any separate assignment of rents and leases, the terms providing Lender with the most extensive or expansive rights and remedies shall control.

15. Security Interest in Personal Property:

This Mortgage is also intended to encumber and create, and Borrower does hereby grant to Lender, a security interest in:

- (a) All of Borrower's Personal Property and Fixtures now or hereafter placed in or affixed to the above Property and Improvements and used on or in connection therewith, whether or not the same shall have or would have become a part of said Property by attachment thereto, including without limitation all elevators, and ventilating apparatus, awnings, carpeting and other floor covering materials, draperies, gas and oil tanks and such other goods, equipment and personal property, including but not limited to furniture, furnishings, and all maintenance and other such equipment as is usually furnished by landlords in renting retail business and commercial office space or warehouse space, including the Rents and Profits and all additions thereto and replacements thereof.
- (b) All the Rents and Profits and all rights, causes of action, demands and claims which the Borrower is or may be entitled to assert in Bankruptcy Court, or otherwise, by reason of the termination, rejection or breach of any Lease of any portion of said Property.
- (c) All items described on Exhibit C attached hereto and incorporated herein by this reference.

This Mortgage constitutes a security agreement between Borrower and Lender with respect to all Fixtures and Personal Property in which Lender is granted a security interest hereunder, and, cumulative of all other rights and remedies of Lender hereunder, Lender shall have all of the rights and remedies of a secured party. Borrower hereby agrees to execute and deliver on demand and hereby irrevocably constitutes and appoints Lender the attorney-in-fact of Borrower to execute and deliver and, if appropriate, to file with the appropriate filing officer or officers such security agreements, financing statements, continuation statements or other instruments as Lender may request or require in order to impose, perfect or continue the perfection of the lien or security interest created hereby.

16. Fixture Filing and Financing Statement:

This Mortgage is intended to be a fixture filing and financing statement within the purview of the Uniform Commercial Code with respect to those items of the Property as constitute fixtures on the Property. The address of Borrower (Debtor) and Lender (Secured Party) are set forth on the first page of this Mortgage. This Mortgage is to be filed for record in the real property records of Shelby County, Alabama, where the Property is located. Borrower is the record owner of the Property. To the extent allowed by law, Borrower hereby authorizes the Lender to file financing statements and continuation statements with respect to the Property in the appropriate filing offices, without the Borrower's signature.

17. Rights and Remedies of Lender upon Default.

- (a) Acceleration of Debt. Upon the occurrence of an Event of Default or at any time thereafter, the Lender may at its option and without demand or notice to the Mortgagor, declare all or any part of the Debt immediately due and payable, whereupon all such Debt shall forthwith become due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Mortgagor, and the Lender may immediately enforce payment of all such amounts and may exercise any or all of its rights and remedies under this Mortgage, the Note, any of the other Security Documents and applicable law. The Mortgagor also waives any and all rights the Mortgagor may have to a hearing before any judicial authority prior to the exercise by the Lender of any of its rights under this Mortgage, the Note, any of the other Security Documents and applicable law.
- (b) Access to Property; Operation of Property by Lender. Upon the occurrence of an Event of Default or at any time thereafter, in addition to all other rights herein conferred on the Lender, the Lender (or any person, firm or corporation designated by the Lender) may, but will not be obligated to, enter upon, and without taking possession thereof, inspect or cause to be inspected, the Property, including testing for hazardous substances, and/or to take possession of any or all of the Property, exclude the Mortgagor therefrom, and hold, use, administer, manage and operate the same to the extent that the Mortgagor could do so, without any liability to the Mortgagor resulting therefrom; and the Lender may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Mortgagor with respect to the Property.
- (c) Judicial Proceedings; Right to Receiver. Upon the occurrence of an Event of Default or at any time thereafter, the Lender, in lieu of, or in addition to, exercising the power of sale hereinafter given, may proceed by suit to foreclose its lien on, security interest in, and assignment of, the Property, to sue the Mortgagor for damages on account of or arising out of said default or breach, or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Lender shall be entitled, as a matter of right, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this mortgage, to the appointment by any competent court or tribunal, without notice to the Mortgagor or any other party, of a receiver of the rents, issues and profits of the Property, with power to lease and control the Property and with such other powers as may be deemed necessary.
- (d) Foreclosure. Upon the occurrence of an Event of Default, or at any time thereafter, Lender may foreclose this Mortgage in any manner now or hereafter

provided by Alabama law, and Lender, or its agent, may sell the Property or any part of the Property (referred to as "Sale") pursuant to a power of sale (which is hereby granted) at one or more public sales before the main or front door of the courthouse of the county or counties, as may be required, in which the Property or any part of the Property is situated, after having first given notice of the time, place and terms of sale, together with a description of the Property, at least once a week for three (3) successive weeks preceding the date of such sale in some newspaper published in said county or counties, or as may otherwise be required by applicable law. At any such Sale, Lender may execute and deliver to the purchaser a conveyance of the Property or any part of the Property. Lender shall have the right to enforce any of its remedies set forth herein without notice to Borrower, except for such notice as may be required by law. In the event of any sale under this Mortgage by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceedings or otherwise, the Property may be sold as an entirety or in separate parcels and in such manner or order as Lender in its sole discretion may elect, and if Lender so elects, Lender may sell the personal property covered by this Mortgage at one or more separate sales in any manner permitted by the Uniform Commercial Code of the state in which the Property is located, and one or more exercises of the powers herein granted shall not extinguish or exhaust such powers, until the entire Property is sold or the indebtedness secured hereby is paid in full. If the indebtedness secured hereby is now or hereafter further secured by any chattel mortgages, pledges, contracts of guaranty, assignments of lease or other security instruments, Lender at its option may exhaust the remedies granted under any of said security instruments or this Mortgage either concurrently or independently, and in such order as Lender may determine. Lender may bid at the Sale and may accept, as successful bidder, credit of the bid amount against the indebtedness secured hereby as payment of any portion of the purchase price. Lender shall apply the proceeds of a Sale, first to any fees or attorney fees permitted Lender by law in connection with Sale, second to expenses of foreclosure, publication, and sale permitted Lender by law in connection with Sale, third to the indebtedness secured hereby, and any remaining proceeds as required by applicable law. With respect to any portion of the Property that constitutes fixtures, Lender may proceed under law applicable to foreclosure of interests in real estate or law applicable to personal property.

- (e) Personal Property and Fixtures. Upon the occurrence of an Event of Default or at any time thereafter, the Lender shall have and may exercise with respect to the Personal Property and Fixtures included in the Property (the "Collateral") all rights, remedies and powers of a secured party under the Alabama Uniform Commercial Code with reference to the Collateral or any other items in which a security interest has been granted herein, including, without limitation, the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the Collateral and any part or parts thereof in any manner to the fullest extent authorized or permitted under the Alabama Uniform Commercial Code after default hereunder, without regard to preservation of the Collateral or its value and without the necessity of a court order. The Lender shall have, among other rights, the right to take possession of the Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing the same without being guilty of trespass and without liability for damages occasioned thereby and to take any action deemed appropriate or desirable by the Lender; at its option and its sole discretion, to repair, restore or otherwise prepare the Collateral for sale, lease or other use or disposition. At the Lender's request, the Mortgagor shall assemble the Collateral and make the Collateral available to the Lender at any place designated by the Lender. To the extent permitted by law, the Mortgagor expressly waives any notice of sale or any other

disposition of the Collateral and any rights or remedies of the Lender with respect to, and the formalities prescribed by law relative to, the sale or disposition of the Collateral or to the exercise of any other right or remedy of the Lender existing after default. To the extent that such notice is required and cannot be waived, the Mortgagor agrees that if such notice is given to the Mortgagor in accordance with the provisions of paragraph 28 below, at least five days before the time of the sale or other disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

The Mortgagor agrees that the Lender may proceed to sell or dispose of both the real and personal property comprising the Property in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. The Mortgagor hereby grants the Lender the right, at its option after default hereunder, to transfer at any time to itself or its nominee the Collateral or any part thereof and to receive the monies, income, proceeds and benefits attributable to the same and to hold the same as Collateral or to apply it on the Debt in such order and amounts and manner as the Lender may elect. The Mortgagor covenants and agrees that all recitals in any instrument transferring, assigning, leasing or making other disposition of the Collateral or any part thereof shall be full proof of the matters stated therein and no other proof shall be required to establish the legal propriety of the sale or other action taken by the Lender and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred.

(f) Rents and Leases. Should an Event of Default be continuing:

(i) The Lender, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies with respect to Rents and Leases:

(A) to terminate automatically, without the necessity of taking any action, the license granted to the Mortgagor to collect the Rents, and, without taking possession, in the Lender's own name to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees, to apply the net proceeds thereof to the Debt in such order and amounts as the Lender may choose (or hold the same in a reserve as security for the Debt);

(B) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, to enter upon, take possession of, manage and operate the Property or any part thereof for the account of the Mortgagor, make, modify, enforce, cancel or accept surrender of any Lease, remove and evict any lessee or sublessee, increase or reduce rents, decorate, clean and make repairs, and otherwise do any act or incur any cost or expenses the Lender shall deem proper to protect the security hereof, as fully and to the same extent as the Mortgagor could do if in possession, and in such event to apply any funds so collected to the operation and management of the Property (including payment of reasonable management, brokerage and attorney's fees) and payment of the Debt in such order and amounts as the Lender may choose (or hold the same in reserve as security for the Debt); and

(C) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement of the Mortgagor under this mortgage.

- (ii) The collection of the Rents and application thereof (or holding thereof in reserve) as aforesaid or the entry upon and taking possession of the Property or both shall not cure or waive any default or waive, modify or affect any notice of default under this mortgage, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Lender, once exercised, shall continue for so long as the Lender shall elect, notwithstanding that the collection and application aforesaid of the Rents may have cured the original default. If the Lender shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.
- (g) Application of Proceeds. All payments received by the Lender as proceeds of the Property, or any part thereof, as well as any and all amounts realized by the Lender in connection with the enforcement of any right or remedy under or with respect to this mortgage, shall be applied by the Lender as follows: (i) to the payment of all necessary expenses incident to the execution of any foreclosure sale or sales or other remedies under this mortgage, including reasonable attorneys' fees as provided herein and in the Note, the Loan Agreement and the other Security Documents, (ii) to the payment in full of any of the Debt that is then due and payable (including without limitation principal, accrued interest and all other sums secured hereby) and to the payment of attorneys' fees as provided herein and in the Note, (iii) to a cash collateral reserve fund to be held by the Lender in an amount equal to, and as security for, any of the Debt that is not then due and payable, and (iv) the remainder, if any, shall be paid to the Mortgagor or such other person or persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.
- (h) Multiple Sales. Upon the occurrence of an Event of Default or at any time thereafter, the Lender shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this mortgage. Any such sale may be made subject to the unmatured part of the Debt secured by this mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the Debt secured by this mortgage, but as to such unmatured part of the Debt this mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Debt whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Debt without exhausting any power of foreclosure and the power to sell the Property for any other part of the Debt, whether matured at the time or subsequently maturing.
- (i) Waiver of Appraisement Laws. The Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (i) any appraisement before sale of any portion of the Property (commonly known as appraisement laws), or (ii) any extension of time for the enforcement of the collection of the Debt or any creation or extension of a period of redemption from any sale made in collecting the Debt (commonly known as stay laws and redemption laws).

18. Collection Costs:

The Mortgagor agrees to pay all costs incurred by the Lender in collecting or securing, or attempting to collect or secure, the Debt, or any part thereof, or in defending or attempting to defend the priority of this mortgage against any Lien on the Property,

unless this mortgage is herein expressly made subject to any such Lien, and/or all costs incurred in the foreclosure of this mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction, including, but not limited to, attorneys' fee, appraiser's fee, survey costs, abstract and title search costs. The full amount of such costs incurred by the Lender shall be a part of the Debt and shall be secured by this mortgage.

19. No Waiver by Lender:

No waiver by Lender of any right under this Mortgage shall be effective unless in writing. Waiver by Lender of any right granted to Lender under this Mortgage or of any provision of this Mortgage as to any transaction or occurrences shall not be deemed a waiver as to any future transaction or occurrences. By accepting payment of any sum secured hereby after its due date, or by making any payment or performing any act on behalf of Borrower that Borrower was obligated hereunder, but failed to make or perform, or by adding any payment so made by Lender to the indebtedness secured hereby, Lender does not waive its right to require prompt payment when due of all other sums so secured or to require prompt performance of all other acts required hereunder, or to declare a Default for failure so to pay.

20. Time of the Essence:

Time is of the essence in all of Borrower's obligations hereunder.

21. Inspection and Business Records:

Borrower agrees to provide Lender with an annual Property operating statement and current rent roll within one hundred twenty (120) days of the end of each calendar year, setting forth all income, expenses and occupancy information relating to the Property. If in default, Lender shall have the further right to require a certified operating statement and current rent roll be prepared in a form satisfactory to Lender, but not required to be prepared in accordance with generally accepted accounting principles, and then delivered to Lender. All statements provided under this Paragraph 21 will be provided at Borrower's cost. In addition, Borrower shall provide Lender with such other and further records, reports or information as Lender shall reasonably request. Lender or its representatives may, upon reasonable notice to Borrower, make or cause to be made reasonable entries upon and inspections of the Property as Lender in its sole discretion may deem appropriate, and Borrower or its representatives shall be fully cooperative in allowing such inspections.

22. Remedies:

No remedy herein provided shall be exclusive of any other remedy herein or now or hereafter existing by law, but shall be cumulative. To the extent allowed by law, every power or remedy hereby given to Lender, or to which it may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by Lender, and Lender may pursue inconsistent remedies. Lender is hereby authorized and empowered at its option, without any obligation so to do, and without affecting the obligations hereof, to apply toward the payment of any indebtedness of the Borrower to the Lender any and all sums of money of Borrower which Lender may have in its possession or under its control, including without limiting the generality of the foregoing, any savings account, deposit, investment certificate, escrow or trust funds.

23. Savings Clause:

If, under any circumstances whatsoever, the interest payable to Lender by Borrower is at a rate in excess of that permitted under applicable law to be paid by Borrower, then, the interest payable to Lender shall be reduced to the maximum amount permitted under applicable law; and if under any circumstance Lender shall ever receive anything of value deemed interest by applicable law which would exceed interest at the highest lawful rate, an amount equal to any excessive interest shall be applied to the reduction of the principal amount owing under the Promissory Note and the obligations owing under this Mortgage and not to the payment of interest; or if such excessive interest exceeds the unpaid balance of principal of the Promissory Note and the obligations owing under this Mortgage, such excess shall be refunded to Borrower.

24. Waiver of Jury Trial:

BORROWER, BY EXECUTION OF THIS MORTGAGE, AND LENDER BY ACCEPTANCE OF THIS MORTGAGE, EACH HEREBY IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS MORTGAGE, THE NOTE AND OTHER LOAN DOCUMENTS, OR THE TRANSACTIONS CONTEMPLATED THEREBY, ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTION OF ANY OF THE PARTIES. BORROWER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO LENDER MAKING THE LOAN WHICH IS THE SUBJECT MATTER OF THIS TRANSACTION. BORROWER FURTHER ACKNOWLEDGES THAT THIS WAIVER HAS BEEN FREELY AND VOLUNTARILY MADE AFTER FULL OPPORTUNITY TO DISCUSS SAME WITH COUNSEL OF BORROWER'S CHOICE.

25. Illegality:

In the event that any provision or clause of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared to be severable. If the lien of this Mortgage is or becomes invalid or unenforceable, the amount secured hereby shall become immediately due and payable. Should this instrument be construed or adjudicated to be ineffective or unenforceable as a Mortgage, then this instrument shall be construed and enforced as a real estate mortgage, with Borrower as mortgagor and Lender as mortgagee.

26. General Provisions:

- (a) This Mortgage applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns; however, nothing herein is intended to be a waiver by Lender of the provisions of Paragraph 8 hereof.
- (b) The term "Lender" shall mean the owner and holder (including a pledgee) of any note secured hereby, whether or not named as Lender herein.
- (c) Wherever the context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and vice versa.
- (d) Captions and paragraph headings used herein are for convenience only, are not a part of this Mortgage and shall not be used in construing it.

- (e) The term "Borrower" shall mean the original Borrower hereunder and any subsequent owner of the Property who acquires the same subject to this Mortgage with the consent of the Lender. If more than one person is now or hereafter named herein as Borrower, each obligation of Borrower shall be the joint and several obligation of each such person.
- (f) The rights or remedies granted hereunder, or by law, shall not be exclusive, but shall be concurrent and cumulative.

27. Representations:

The representations made by Borrower to Lender, through either itself or any other agent, shall survive the closing of the loan evidenced by the Promissory Note and secured by this Mortgage and by the recording of this Mortgage. Said representations were important to Lender in determining the ability of the Property to support the debt service of this Loan.

28. Address for Mailing Notices:

Calera Crossings, LLC
c/o Grandbridge Real Estate Capital, LLC
851 East I-65 Service Road South
Mobile, Alabama 36606

Borrower hereby requests that a copy of any notice of default and a copy of any notice of sale hereunder be mailed to Borrower at its address set forth above. All notices, demands, requests or other communications with respect to this Mortgage shall be in writing and shall be effective if personally delivered or mailed by certified mail following three (3) days deposit in the United States mail, postage prepaid, to Borrower or Lender, respectively, at the addresses set forth above. Any party may at any time change its address for notices by delivering or mailing to the other parties a notice of said change.

29. Law:

This Mortgage, the rights of the Lender hereunder and the Promissory Note secured hereby shall be construed and enforced according to the laws of the State of Alabama.

30. Entire Contract:

This contract together with all other Security Documents embodies the final, entire agreement among the parties hereto and supersedes any and all prior commitments, agreements, representations, and understandings, whether written or oral, relating to the subject matter hereof and may not be contradicted or varied by evidence of prior, contemporaneous or subsequent oral agreements or discussions of the parties hereto. There are no oral agreements among the parties hereto. The provisions of the Mortgage may be amended or waived only by an instrument in writing signed by the parties hereto.

31. No Agricultural Use:

The Property is not used principally or primarily for agricultural or farming purposes.

32. Additional Representation:

Borrower hereby represents and warrants to Lender that:

- (a) Borrower:
 - (i) Is a limited liability company, validly existing and in good standing under the laws of the State of Alabama;
 - (ii) Has the power and authority to own its properties and to carry on its business as now being conducted;
 - (iii) Is qualified to do business in every jurisdiction in which the nature of its business or its properties makes such qualification necessary; and
 - (iv) Is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.
- (b) The execution, delivery and performance by Borrower of this Mortgage, the Promissory Note and all other Security Documents, and the borrowing evidenced by the Promissory Note:
 - (i) Are within the limited liability company powers of Borrower;
 - (ii) Have been duly authorized by all requisite action;
 - (iii) Have received all necessary governmental approval; and
 - (iv) Will not violate any provision of law, any order of any court or other agency or government, or the Articles of Organization and Operating Agreement of Borrower.
- (c) This Mortgage, the Promissory Note and all other Security Documents constitute the legal, valid and binding obligations of Borrower in accordance with their respective terms.
- (d) Neither the execution and delivery of this Mortgage, the Promissory Note or other Security Documents, the consummation of the transactions contemplated hereby, or thereby, nor the fulfillment of or compliance with the terms and conditions of this Mortgage, the Promissory Note, or other Security Documents, conflicts with or results in a breach of any of the terms, conditions or provisions of any restrictions or any agreement or instrument to which Borrower is now a party or by which it is bound.

33. Hazardous Materials:

(a) **Definitions.** For the purpose of this Mortgage, Borrower and Lender agree that, unless the context otherwise specifies or requires, the following terms shall have the meaning herein specified:

- (i) Hazardous Materials: Any substance on the Property, the presence of which is in amounts regulated by any Governmental Requirements (as hereinafter defined), including but not limited to: (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance"

as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) ("CERCLA" or "SuperFund"), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) any petroleum-based products; and (vi) underground storage tanks, whether empty, filled or partially filled with any substance.

- (ii) Governmental Requirements: All laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city, or any other political subdivision in which the Property is located, and any other political subdivision, agency or instrumentality exercising jurisdiction over Borrower or the Property.
- (iii) Hazardous Materials Contamination: The contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, over or under the Property by Hazardous Materials, or the contamination of the improvements, facilities, soil, ground-water, air or other elements on, over or under any other property as a result of Hazardous Materials at any time (whether before or after the date of this Mortgage) emanating from the Property.

b. **Representations and Warranties.** Borrower hereby represents and warrants that:

- (i) To the best of Borrower's knowledge, except as disclosed in that certain Phase I Environmental Site Assessment (the "ESA") dated November 25, 2013, prepared by Environomics, Inc., no Hazardous Materials are located on the Property or have been released into the environment, or deposited, discharged, placed or disposed of at, on, under or near the Property, or transported to or from the Property. No portion of the Property is being used or has been used at any previous time, for the disposal, storage, treatment, processing, manufacturing or other handling of Hazardous Materials nor is any part of the Property affected by any Hazardous Materials Contamination.
- (ii) To the best of Borrower's knowledge, without investigation (i) no Hazardous Materials are located on property adjoining the Property; (ii) no property adjoining the Property has ever been used at any previous time for the disposal, storage, treatment, processing, manufacturing or other handling of Hazardous Materials; and (iii) no property adjoining the Property is affected by Hazardous Materials Contamination.
- (iii) To the best of Borrower's knowledge, and except as disclosed in the ESA, no asbestos or asbestos-containing materials have been installed, used, incorporated into, or disposed of on the Property.
- (iv) To the best of Borrower's knowledge, and except as disclosed in the ESA, no polychlorinated biphenyls or materials containing polychlorinated biphenyls are located on or in the Property, in the form of electrical transformers, fluorescent light fixtures with ballasts, cooling oils, or any other device or form.
- (v) To the best of Borrower's knowledge, and except as disclosed in the ESA, no underground storage tanks are located on the Property or, to the best of Borrower's knowledge, were previously located on the Property and subsequently removed or filled.

- (vi) To the best of Borrower's knowledge, and except as disclosed in the ESA, no investigation, administrative order, consent order, agreement, litigation or settlement with respect to Hazardous Materials or Hazardous Materials Contamination is proposed, threatened, anticipated or in existence with respect to the Property. The Property and its existing and prior uses comply and at all times have complied with any applicable Governmental Requirements relating to environmental matters or Hazardous Materials. There is no condition on the Property which is in violation of any applicable Governmental Requirements relating to Hazardous Materials, and Borrower has received no communication from or on behalf of any governmental authority that any such condition exists. The Property is not currently on, and to the best of Borrower's knowledge, has never been on, any federal, state or local "Superfund" or "Superlien" list.
 - (vii) Except for studies, audits, and reports pertaining to the Property which have been made available to Lender, there have been no environmental investigations, studies, audits, tests, reviews or other analyses conducted by or which are in the possession of or available to Borrower in relation to the Property.
 - (viii) All representations and warranties contained in this Paragraph 33 shall survive the consummation of the transactions contemplated by this Mortgage.
- c. **Covenants.** Borrower agrees: (a) that Borrower shall not receive, store, dispose or release any Hazardous Materials on or to the Property or transport any Hazardous Materials to or from the Property or permit the existence of any Hazardous Materials Contamination, or to the extent such Hazardous Materials are brought in, on, about or under the Property, that all operations or activities shall be in all material respects, in compliance with all State, Federal and local laws and regulations governing the generation, handling, treatment, storage, use, transportation, discharge and disposal of Hazardous Materials; (b) to give written notice to Lender immediately upon Borrower's acquiring knowledge of the presence of any Hazardous Materials on the Property or of the transport of any Hazardous Materials to or from the Property or of the existence of any Hazardous Materials Contamination, with a full description thereof; (c) promptly, at Borrower's sole cost and expense, to comply with any Governmental Requirements requiring the removal, treatment or disposal of such Hazardous Materials or Hazardous Materials Contamination and provide Lender with satisfactory evidence of such compliance; (d) to provide Lender, within thirty (30) days after demand by Lender, with financial assurance evidencing to Lender's satisfaction that the necessary funds are available to pay the cost of removing, treating and disposing of such Hazardous Materials or Hazardous Materials Contamination and discharging any assessments which may be established on the Property as a result thereof; and (e) to insure that all leases, licenses, and agreements of any kind now or hereafter executed which permit any party to occupy, possess, or use in any way the Property or any part thereof, whether written or oral, include an express prohibition on the disposal or discharge of any Hazardous Materials at or affecting the Property, and a provision that failure to comply with such prohibition shall expressly constitute a default under any such agreement.
- d. **Liens.** Borrower shall not cause or suffer any liens to be recorded against the Property as a consequence of, or in any way related to, the presence, remediation or disposal of Hazardous Materials in or about the Property,

including any so-called state, federal or local "Superfund" lien relating to such matters.

- e. **Site Assessments.** Lender (by its officers, employees and agents) at any time and from time to time, either prior to, in the event Lender has reasonable belief that Environmental Contamination has occurred, or after the occurrence of an Event of Default, may contract for the services of persons (the "Site Reviewers") to perform environmental site assessments ("Site Assessments") on the Property for the purpose of determining whether there exists on the Property any environmental condition which could result in any liability, cost or expense to the owner, occupier or operator of such Property arising under any Governmental Requirements relating to Hazardous Materials. The Site Assessments may be performed at any time or times, upon reasonable notice, and under reasonable conditions established by Borrower which do not impede the performance of the Site Assessment. The Site Reviewers are hereby authorized to enter upon the Property for such purposes. The Site Reviewers are further authorized to perform both above and below-ground testing for environmental damage or the presence of Hazardous Materials or Hazardous Materials Contamination on the Property and such other tests on the Property as may be necessary to conduct the Site Assessments in the reasonable opinion of the Site Reviewers. Borrower will supply to the Site Reviewers such historical and operational information regarding the Property as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and will make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters. On request, Lender shall make the results of such Site Assessments fully available to Borrower, which (prior to an Event of Default) may at its election participate under reasonable procedures in the direction of such Site Assessments and the description of tasks of the Site Reviewers. The cost of performing such Site Assessments shall be paid by Borrower upon demand of Lender and any such obligations shall be indebtedness secured by this Mortgage.
- f. **Indemnification.** Borrower shall at all times retain any and all liabilities arising from the presence, handling, treatment, storage, transportation, removal or disposal of Hazardous Materials on the Property. Regardless of whether any Site Assessments are conducted hereunder, and regardless of whether any Event of Default (as defined in Paragraph 7 of this Mortgage) shall have occurred and be continuing or any remedies in respect to the Property are exercised by Lender, Borrower shall defend, indemnify and hold harmless Lender from and against any and all liabilities (including strict liability), suits, actions, claims, demands, penalties, damages (including, without limitation, lost profits, consequential damages, interest, penalties, fines and monetary sanctions), losses, costs and expenses (including, without limitation, reasonable attorneys' fees and remedial costs) (the foregoing are hereinafter collectively referred to as "Liabilities") which may now or in the future (whether before or after the culmination of the transactions contemplated by this Mortgage) be incurred or suffered by Lender by reason of, resulting from, in connection with, or arising in any manner whatsoever out of the breach of any warranty or covenant or the inaccuracy of any representation of Borrower contained or referred to in this Paragraph 33 or in any loan agreement made and entered into between Borrower and Lender relating to the Property with respect to Hazardous Materials or which may be asserted as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials or any Hazardous Materials Contamination or arise out of or result from the environmental condition of the Property or the applicability of any

Governmental Requirements relating to Hazardous Materials, regardless of whether or not caused by or within the control of Borrower or Lender; provided, however, that the indemnity obligation shall not include those Liabilities to the extent arising from or relating to the presence on or under, or to the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials or any Hazardous Materials Contamination first occurring on or after the date Lender takes possession of the Property following foreclosure.

Such Liabilities shall include, without limitation: (i) injury or death to any person; (ii) damage to or loss of the use of any property; (iii) the cost of any demolition and rebuilding of any improvements now or hereafter situated on the Property or elsewhere, and the cost of any repair or remediation of any such improvements; (iv) the cost of any activity required by any governmental authority; (v) any lawsuit brought or threatened, good faith settlement reached, or governmental order relating to the presence, disposal, release or threatened release of any Hazardous Materials, on, from or under the Property; and (vi) the imposition of any liens on the Property arising from the activity of Borrower or Borrower's predecessors in interest on the Property or from the existence of Hazardous Materials upon the Property or Hazardous Materials Contamination. The covenants, warranties, agreements and indemnifications contained in this Paragraph 33 shall survive the consummation of the transactions contemplated by this Mortgage; provided, however, that the indemnity obligation shall not include those Liabilities to the extent arising from or relating to the presence on or under, or to the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials or any Hazardous Materials Contamination first occurring on or after the date Lender takes possession of the Property following foreclosure.

- g. **Right of Entry.** Lender shall have the right but not the obligation, without in any way limiting Lender's other rights and remedies under this Mortgage, to enter onto the Property or to take such other actions as it deems necessary or advisable to clean up, remove, resolve or minimize the impact of, or otherwise deal with, any Hazardous Materials or Hazardous Materials Contamination on or under the Property following receipt of any notice from any person or entity asserting the existence of any Hazardous Materials or Hazardous Materials Contamination pertaining to the Property, or any part thereof which, if true, could result in an order, notice, suit, imposition of a lien on the Property, or other action, and/or which, in Lender's sole opinion, could jeopardize Lender's security upon this Mortgage. All reasonable costs and expenses paid or incurred by Lender in the exercise of any such rights shall be indebtedness secured by this Mortgage and shall be payable by Borrower upon demand.

34. Compliance with Ground Lease:

Borrower represents and warrants:

- (a) That the Ground Lease is in full force and effect and modified only by that certain First Amendment to Ground Lease dated effective as of February 21, 2014 ("Ground Lease");

- (b) That all rents (including additional rents and other charges) reserved in the Ground Lease have been paid to the extent they were payable prior to the date hereof;
- (c) That there is no existing default under the provisions of the Ground Lease or in the performance of any of the terms, covenants, conditions or warranties thereof on the part of the lessee or lessor to be observed and performed;
- (d) That Borrower as lessee will at all times promptly and faithfully keep and perform all the covenants and conditions contained in the Ground Lease and in all respects conform to and comply with the terms and conditions of the Ground Lease;
- (e) That Borrower will not modify, extend or in any way alter the terms of the Ground Lease or cancel or surrender the Ground Lease, or waive, execute, condone or in any way release or discharge the lessor thereunder of or from the obligations, covenants, conditions and agreements by lessor to be done and performed;
- (f) That Borrower will give to Lender immediate notice of any default under the Ground Lease or of the receipt by Borrower of any notice of default from the lessor under the Ground Lease and that Borrower will permit forthwith the Lender or its representative at all times to make reasonable investigation or examination concerning the performance by Borrower of the covenants of the Ground Lease;
- (g) That Borrower will promptly deposit with the Lender an exact copy of any notice, communication, plan, specification, petition, complaint, pleading, other instrument or document received or given by Borrower in any way relating to or affecting the Ground Lease which may concern or affect the estate of the lessee in or under the Ground Lease or in the real estate thereby demised;
- (h) That Borrower will not sublet (except as otherwise herein expressly permitted) or assign all or any portion or all of his leasehold estate, without Lender's prior written consent, which consent shall not be unreasonably withheld or delayed; and
- (i) That if, due to an act or omission committed by Borrower, an Event of Default (as defined in the Ground Lease) exists under the Ground Lease and continues for a period of thirty (30) days following Borrower's receipt of a notice from Lender or the Ground Lease lessor (whichever is received earlier), Lender may (but shall not be obligated to) take any action Lender deems necessary or desirable to prevent or to cure any Event of Default by Borrower under the Ground Lease. Borrower hereby expressly grants to Lender, and agrees that Lender shall have, the absolute and immediate right to enter in and upon the Property or any part thereof to such extent and as often as Lender acting reasonably, deems necessary or desirable in order to prevent or to cure any such default. Lender may pay and expend such sums of money as Lender reasonably deems necessary for any such purpose, and Borrower hereby agrees to pay to Lender, immediately and without demand, all such sums so paid and expended by Lender, together with interest thereon, from the date of each such payment at the rate of interest provided in the Promissory Note. All sums so paid and expended by Borrower and the interest thereon shall be added to and be secured by the lien of this Deed of Trust.

34. Discretionary Matters:

Borrower acknowledges and agrees that should any matter herein depend or be contingent upon the discretion, judgment or consent of the Lender, it is to be presumed that the Lender will take such actions and consider such elements in exercising said discretion, making such judgment, or granting or denying such consent as are required, based on Lender's good faith subjective judgment, to protect the security interest of Lender in the Property and to ensure repayment of the loan secured hereby.

{Signature Page to Follow}

IN WITNESS WHEREOF, Borrower has executed this Mortgage on the date set forth below and is effective on the date first set forth above.

BORROWER:

Calera Crossings, LLC,
an Alabama limited liability company

By: Lamar A. Harrison
Lamar A. Harrison
Manager

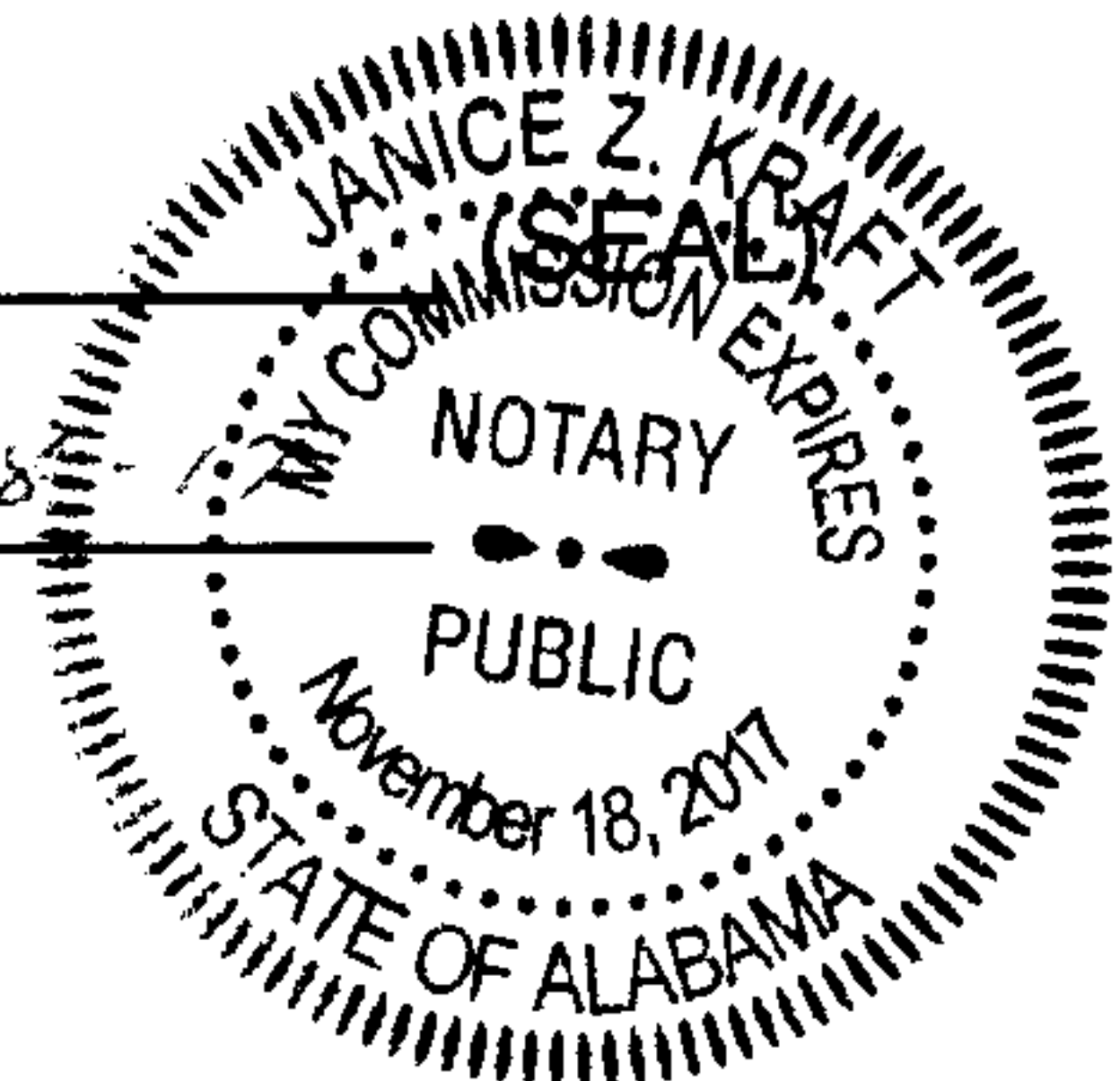
By: Donald P. Kelly, Jr.
Donald P. Kelly, Jr.
Manager

STATE OF ALABAMA)
 : ss.
Mobile COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Donald P. Kelly, Jr., whose name as the Manager of Calera Crossings, LLC, an Alabama 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, with full authority of the company, executed the same voluntarily for and as the act of said company as of the date hereof.

Given under my hand this 12th day of February, 2014.

Janice Z. Kraft
Notary Public
My Commission Expires: 11-18-17



STATE OF ALABAMA)
 : ss.
MOBILE COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that LAMAR A. HARRISON, whose name as the MANAGER of Calera Crossings, LLC, an Alabama 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, with full authority of the company, executed the same voluntarily for and as the act of said company as of the date hereof.

Given under my hand this 14th day of February, 2014.

Janice Z. Kraft
Notary Public
My Commission Expires: 1-14-17

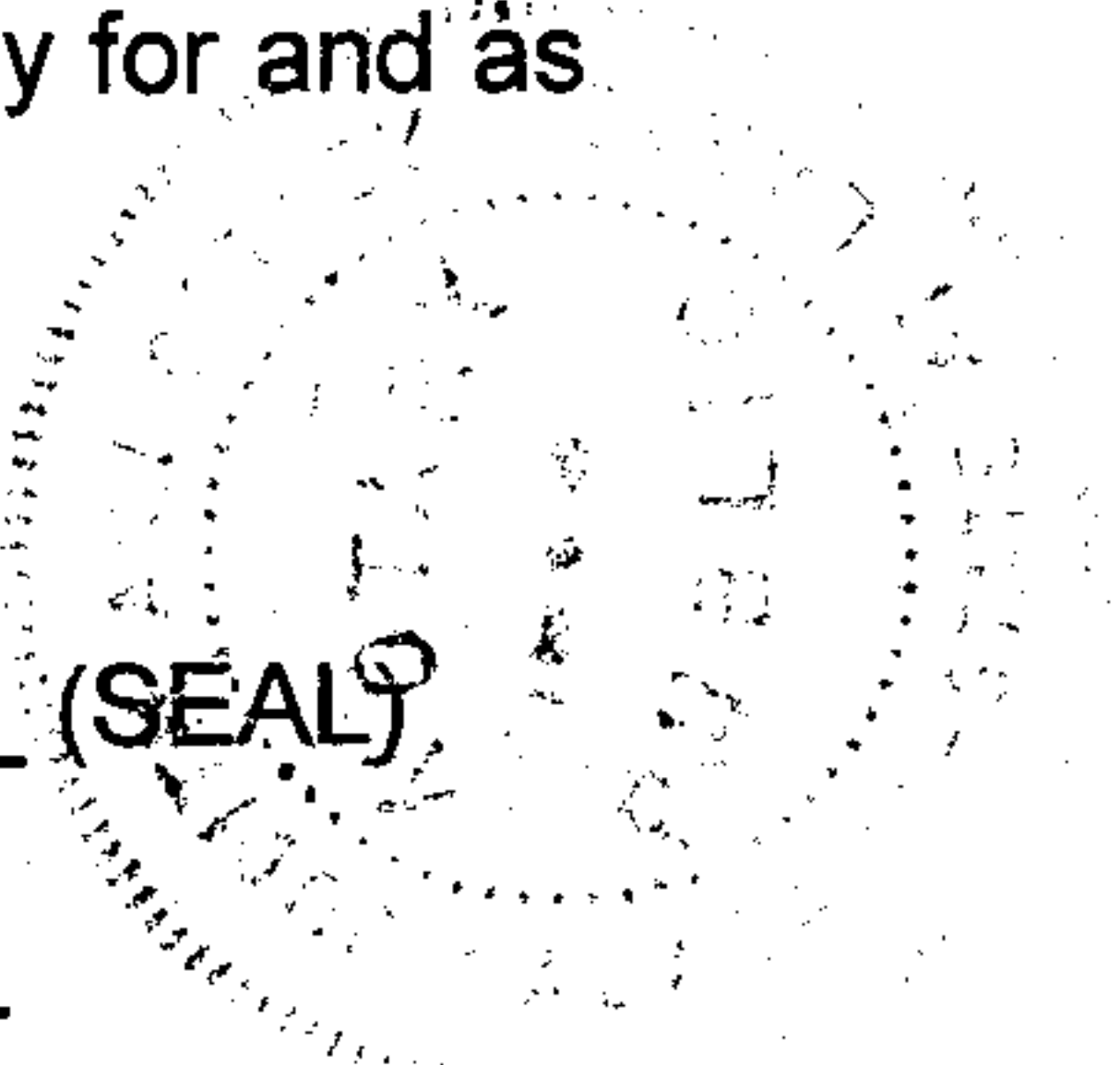


EXHIBIT A

Legal Description of Property

**To Leasehold Real Estate Mortgage, Security Agreement,
Assignment of Rents and Financing Statement**

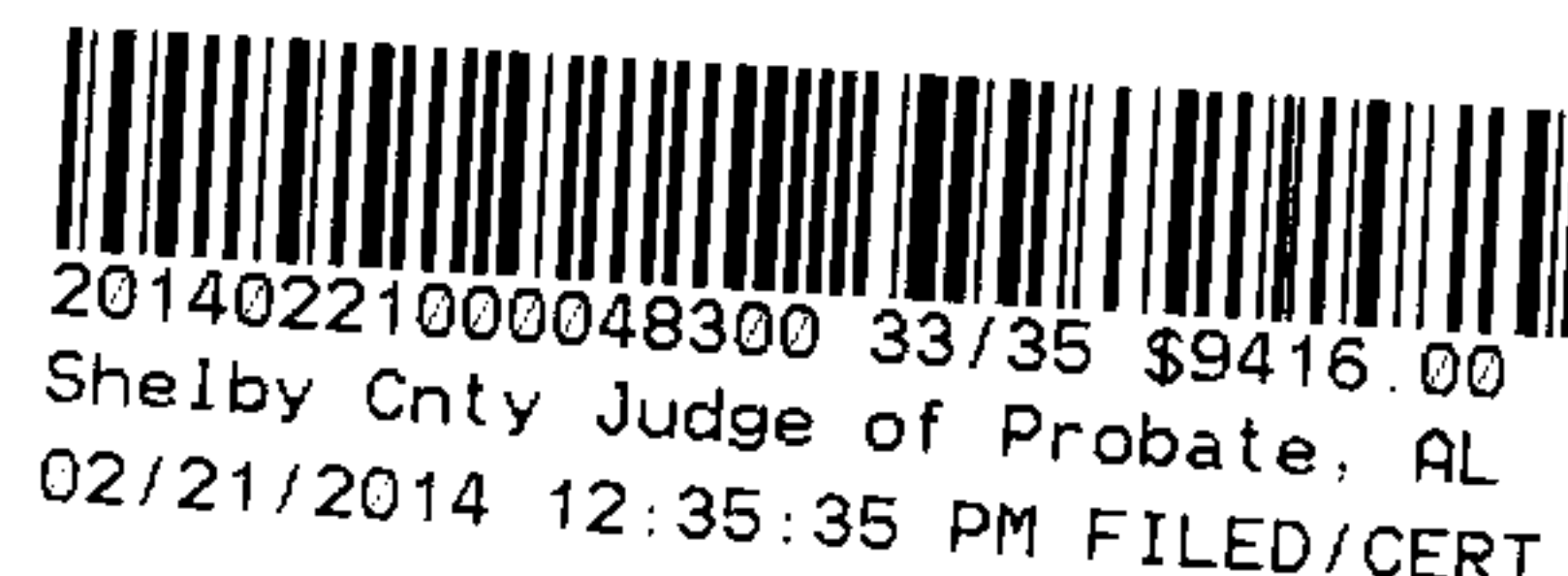
Lot 7, according to the plat of Calera Marketplace, as recorded in Map Book 41, Page 48, in the Probate Office of Shelby County, Alabama.

EXHIBIT B

Permitted Exceptions

To Leasehold Real Estate Mortgage, Security Agreement, Assignment of Rents and Financing Statement

1. Rights or claims of parties in possession, as tenants only, under the terms of unrecorded leases.
2. Any prior reservation or conveyance, together with release of damages, of minerals of every kind and character, including, but not limited to oil, gas, sand and gravel in, on and under subject property.
3. Taxes due and payable October 1, 2014, and subsequent years. 2013 ad valorem taxes have been paid
4. Transmission Line Permit to Alabama Power Company as shown by instrument recorded in Deed Book 99, page 465; Deed Book 203, page 553, in the Probate Office of Shelby County, Alabama.
5. Easement to Alabama Power Company as shown by instrument recorded in Real 224, page 597, in the Probate Office of Shelby County, Alabama.
6. Transmission Line Permit to Alabama Power Company as shown by instrument recorded in Deed Book 130, page 154; and Deed Book 239, page 212, in the Probate Office of Shelby County, Alabama as shown on survey ("Survey") of Surveying Solutions, Inc. dated December 27, 2013, and last revised February 17, 2014.
7. Easements shown on plat of Calera Marketplace, as recorded in Map Book 41, page 48 and in Map Book 36, Page 62, in the Probate Office of Shelby County, Alabama, as shown on Survey.
8. Easement to the City of Calera, recorded in Instrument No. 20040310000121920, in the Probate Office of Shelby County, Alabama as shown on Survey.
9. Rights of the parties as set forth in the following deeds, to use of the Easements described therein, said deeds being recorded under the following instruments of record in the Probate Office of Shelby County, Alabama: Instrument No. 20060809000386910, Instrument No. 20030922000637270 and Instrument No. 20070604000257180, said easements as shown on Survey.
10. Easement granted to Porter Bridge Loan Company, Inc. recorded in Instrument No. 20090305000081360, in the Probate Office of Shelby County, Alabama as shown on Survey.
11. Easement between First Financial Bank and Calera Crossings, LLC, recorded in Instrument No. 20090305000081370, in the Probate Office of Shelby County, Alabama, as shown on survey.



12. Terms and conditions of that certain Memorandum of Lease by and between City of Calera and Calera Crossing, LLC, dated March 3, 2009, recorded in Instrument No. 20090305000081440, in the Office of the Judge of Probate of Shelby County, Alabama; as amended by First Amendment to Ground Lease between said parties.
13. Agreement of Easements, Covenants, Conditions and Restrictions recorded in Instrument No. 20090305000081410, in the Probate Office of Shelby County, Alabama.
14. Easements in favor of Alabama Power Company as recorded in Instrument No. 20091026000401820 and Instrument No. 20100625000201770, in the Probate Office of Shelby County, Alabama.

EXHIBIT C

Personal Property Description

To Leasehold Real Estate Mortgage, Security Agreement, Assignment of Rents and Financing Statement

- A. All fixtures and articles of property now or hereafter attached to, or used or adapted for use in the operation of, the real property located in Shelby County, Alabama, and more particularly described as Exhibit A (the "Property") (whether such items are leased, owned absolutely or subject to any title retaining or security instrument, or otherwise used or possessed, but excluding those items owned by tenants in accordance with their leases), including, without limitation, all heating, cooling, air-conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, cleaning, fire prevention and extinguishing, security and access control, cooking, gas, electric, and communication fixtures, equipment, and apparatus, all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters and furnaces, all ranges, stoves, disposers, refrigerators, and other appliances, all escalators and elevators, all cabinets, partitions, mantels, built-in mirrors, window shades, blinds, screens, awnings, storm doors, windows and sash, all carpeting, underpadding and draperies, all furnishings of public spaces, halls and lobbies and all shrubbery and plants.
- B. All present and future contracts and policies of insurance which insure the Property or any building, structures, or improvements thereon, or any such fixtures or personal property, against casualties and theft, and all proceeds and rights thereto which may be or become payable by virtue of any such insurance contracts or policies.
- C. All the rents, revenues, issues, profits and income of the Property, and all right, title, and interest of Borrower in and to all present and future leases and other agreements for the occupancy or use of all or any part of the Property, and all right, title and, interest of Borrower thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature, together with all guaranties of tenants' or occupants' performance thereunder.
- D. All general intangibles relating to the development or use of the Property, including, without limitation, all permits, licenses, and franchises, all names under or by which the Property may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks, trade names, logos, and good will in any way relating to the Property.
- E. All products and proceeds of all of the foregoing.