

**PREPARED BY AND UPON  
RECORDING RETURN TO:**

Alston & Bird LLP  
101 S. Tryon Street, Suite 4000  
Charlotte, North Carolina 28280  
Attention: Michael T. Cecka, Esq.

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

by and between

**LEE BRANCH LLC**  
*("Mortgagor")*

and

**MORGAN STANLEY PRIVATE BANK, NATIONAL ASSOCIATION**  
*("Mortgagee")*


Dated: November 13, 2015

Premises: 101 Doug Baker Boulevard, Birmingham, Alabama

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NOTE TO RECORDER: THIS MORTGAGE SECURES THE NOTE IN THE MAXIMUM PRINCIPAL AMOUNT OF \$5,500,000.00. NOTWITHSTANDING, THE MORTGAGEE HAS AGREED TO LIMIT ITS RECOVERY UNDER THIS MORTGAGE TO AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT OF \$4,070,000.00. ACCORDINGLY, THE PRIVILEGE TAX PAYABLE ON THIS MORTGAGE ARE BASED ON A MAXIMUM RECOVERY AMOUNT OF \$4,070,000.00

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

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this “*Mortgage*”) made as of November 13, 2015, by LEE BRANCH LLC, an Alabama limited liability company, having its principal business office at an address at 147 2<sup>nd</sup> Avenue South, Suite 400, St. Petersburg, Florida 33701 (“*Mortgagor*”), in favor of MORGAN STANLEY PRIVATE BANK, NATIONAL ASSOCIATION, a national banking association, having an address at 2000 Westchester Avenue, Floor 2NE, Purchase, New York 10577 (“*Mortgagee*”).

**WITNESSETH**

A. Pursuant to a certain Line of Credit Agreement (Secured by Real Property) of even date herewith by and among Mortgagor, PSL Walton LLC, a Florida limited liability company (“*Walton*”) and Mortgagee (as the same may be supplemented, restated, superseded, amended or replaced from time to time, the “*Loan Agreement*”), Mortgagor has executed and delivered to Mortgagee a certain Mortgage Loan Note bearing even date herewith in the principal amount of FIVE MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$5,500,000.00) (together with all extensions, renewals, modifications, substitutions and amendments thereof, the “*Note*”).

B. Mortgagor is the record owner of (i) all of that certain real estate situated in the Town of Birmingham, County of Jefferson, State of Alabama, more particularly described in Exhibit A attached hereto and made a part hereof (the “*Land*”); and (ii) title to the Improvements (as hereinafter defined) located thereon.

C. Mortgagor desires to secure the payment and performance of the Obligations (as defined below), by among other things, entering into this Mortgage.

D. Capitalized terms used without further definition herein shall have the meaning set forth in the Loan Agreement.

NOW, THEREFORE, in consideration of the financing arrangements established under the Loan Agreement, and as security for:

- (1) payment to Mortgagee of all Obligations;
- (2) payment to Mortgagee of all future or additional advances which may be made by Mortgagee to or for the account of Mortgagor, together with interest on such advances (including, without limitation, all sums which Mortgagee may advance under this Mortgage or the other Loan Documents (as defined in the Loan Agreement) with respect to the Mortgaged Property (as defined below) to pay for taxes, assessments, maintenance charges, insurance premiums or costs incurred for the protection of the Mortgaged Property or the lien of this Mortgage, and expenses incurred by Mortgagee by reason of default by Mortgagor under this Mortgage or any of the other Loan Documents); and



- (3) performance of the undertakings and covenants contained in the Loan Documents.

### **GRANTING CLAUSES**

Mortgagor, in consideration of the premises, the indebtedness evidenced by the Note, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged (a) has mortgaged, warranted, granted, bargained, sold, alienated, released, confirmed, conveyed, pledged and assigned, and (b) by these presents does hereby irrevocably grant and create a first priority lien on and security interest in, subject to those permitted encumbrances included in a lender's title policy approved by Mortgagee and the provisions hereof and of the other Loan Documents, and does hereby MORTGAGE, GRANT A SECURITY INTEREST IN AND PLEDGE to Mortgagee and its successors and assigns forever, all of Mortgagor's estate, right, title and interest now owned or hereafter acquired in, to and under any and all the property (collectively, the "***Mortgaged Property***") described in the following Granting Clauses:

- (1) The Land;
- (2) All buildings and improvements now or hereafter located upon the Land (the "***Improvements***");
- (3) All present and future leases, subleases, subsubleases, licenses and other occupancy agreements (whether written or oral) covering all or any portion of the Land and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, licenses and other occupancy agreements (which, together with Mortgagor's interest as landlord thereunder are herein collectively referred to herein as the "***Leases***");
- (4) All rents, issues and profits payable under the Leases and under any future renewals, extensions, amendments or modifications thereof ("***Rents***");
- (5) All fixtures, appliances, machinery, equipment, furnishings and furniture of any nature whatsoever, and other articles of personal property now or hereafter owned by Mortgagor and (i) which now or at any time hereafter are installed in, attached to or located in or upon the Land; (ii) used or intended to be used in connection with the Land or the Improvements, or in the operation or maintenance of the Mortgaged Property (including, without limitation, communications, computer and security systems and the software system therefore); or (iii) the plant or business located thereon, whether or not the personal property is or shall be affixed thereto, expressly including, but without limiting the generality of the foregoing, all articles of personal property listed on Exhibit B attached hereto and made part hereof;
- (6) All building materials, fixtures, building machinery and building equipment owned by Mortgagor and delivered on site to the Land or the Improvements during the course of, or in connection with, the construction of, or reconstruction of, or remodeling of any Improvements from time to time during the term hereof;
- (7) Any and all tenements, hereditaments and appurtenances belonging to the Land or any part thereof, or in any way appertaining thereto, and all streets, alleys, passages, ways, water courses, and all leasehold estates, easements and covenants now existing or hereafter created for



the benefit of Mortgagor or any subsequent owner or tenant of the Land or the Improvements over ground adjoining the Land and all rights to enforce the maintenance thereof, and all other rights, liberties and privileges of whatsoever kind or character, together with any after-acquired property interest in the Land which Mortgagor may at any time hereafter have or acquire, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law or in equity, of Mortgagor in and to the Land or any part thereof;

(8) To the extent assignable, all management agreements, service contracts, license agreements, concession agreements, written or oral, relating to the use and occupancy of the Land now or hereafter existing and the reversions and remainders, income, rents, issues and profits arising therefrom and all deposits (including, without limitation, tenant security deposits) thereunder, and all rights and benefits now or hereafter accruing to Mortgagor under any and all guarantees of the obligations of any tenant, licensee, concessionaire or other occupant thereunder, as any of the foregoing may be amended, extended, renewed or modified from time to time;

(9) All reciprocal easement agreements, operating agreements, and similar agreements however labeled or denominated affecting the Land;

(10) All other documentation belonging to or in Mortgagor's possession now or hereafter existing in connection with the use or operation of the Land including, without limitation, any plans and specifications pertaining to the Improvements, all appraisals, engineering, environmental, soils, marketing and other reports and studies relating to the Land or the Improvements, all permits, licenses, and contract rights, warranties, guarantees, tenant lists, correspondence with present or prospective tenants or suppliers, advertising materials, and telephone exchange numbers as identified in such advertising materials; and

(11) 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.

TO HAVE AND TO HOLD the Mortgaged Property hereby conveyed or mentioned and intended so to be, unto Mortgagee, to its own use forever.

PROVIDED ALWAYS, this instrument is upon the express condition that, upon payment in full of all Obligations, then this Mortgage and the estate hereby granted shall, at the request and at the expense of Mortgagor, be terminated.

**MORTGAGOR REPRESENTS, COVENANTS AND WARRANTIES** to and with Mortgagee that until the Obligations are indefeasibly paid in full:

1. Maximum Principal Amount Secured. Notwithstanding anything to the contrary contained in this Mortgage, the maximum amount of principal indebtedness secured by this Mortgage, or which under any contingency may be secured by this Mortgage, is \$4,070,000.00, plus amounts that Mortgagee expends after a default under this Mortgage to the extent that any such amounts shall constitute payment of (i) taxes, charges or assessments that may be imposed by law upon Mortgagor or the Mortgaged Property; (ii) premiums on insurance policies covering the Mortgaged Property; (iii) expenses incurred in upholding the lien of this Mortgage,



including, without limitation, the expenses of any litigation to prosecute or defend the rights and lien created by this Mortgage; (iv) any amount, cost or charge to which Mortgagee becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority, and (v) any other amount advanced by Mortgagee and permitted by law to be secured as an additional or protective advance; then, and in each such event, such amounts or costs, together with interest thereon, shall be added to the Obligations and shall be secured by this Mortgage.


2. Payment and Performance. Mortgagor shall pay to Mortgagee all of Mortgagor's obligations to repay the Revolving Loan to Mortgagee, together with all interest thereon, as well as all other costs and expenses for which Mortgagor may be obligated to pay under the Note, the Loan Agreement and the other Loan Documents (collectively, the "**Obligations**"), in each case in accordance with the terms of the Loan Documents. Mortgagor shall perform and comply with all of the agreements, conditions, covenants, provisions and stipulations of this Mortgage and the other Loan Documents to which it is a party. Mortgagor shall timely perform all of its obligations and duties as landlord under any Leases of any portion of the Mortgaged Property now or hereafter in effect.

3. Warranty of Title. Mortgagor warrants to Mortgagee that Mortgagor possesses good and marketable, unencumbered fee simple title to the Mortgaged Property and every part thereof, except for those title exceptions listed in Mortgagee's title insurance policy approved by and issued to Mortgagee insuring the priority of the lien of this Mortgage. Mortgagor shall reimburse Mortgagee for any losses, costs, damages and expenses (including, without limitation, reasonable attorneys' fees and court costs) incurred by Mortgagee if an interest in the Land or the Mortgaged Property, other than as permitted hereunder, is claimed by another Person.

4. Maintenance of Mortgaged Property. Mortgagor shall keep and maintain the Mortgaged Property and the abutting sidewalks and curbs in good order and condition (ordinary wear and tear excepted) in compliance with all applicable laws and in a rentable and tenantable state of repair, and will make, as and when necessary, all repairs, renewals and replacements, structural and nonstructural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen. Mortgagor shall abstain from and shall not permit the commission of waste in or about the Mortgaged Property, shall not remove or demolish any portion of the Improvements, or, other than in the ordinary course of business and as permitted under the Loan Agreement, any machinery, equipment or other personal property located thereon or alter the structural character or exterior appearance of any Improvements, without the prior written consent of Mortgagee in each instance. Mortgagor shall not permit the Mortgaged Property to become deserted or abandoned. Mortgagor shall operate the Mortgaged Property as it is currently being operated, and Mortgagor shall not change the use of the Mortgaged Property from its current use without first obtaining the prior written consent of Mortgagee.

5. Insurance.

(a) Mortgagor shall provide and maintain insurance coverage in accordance with the terms of the Loan Agreement.

  
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(b) Mortgagor has obtained and has delivered to Mortgagee certified copies or originals of all insurance policies required under the Loan Agreement, reflecting the insurance coverages, amounts and other requirements set forth in the Loan Agreement. Mortgagor has not, and to the best of Mortgagor's knowledge no Person has, done by act or omission anything which would impair the coverage of any such insurance policy.

(c) If the insurance, or any part thereof, shall expire, or be canceled, or become void or voidable by reason of Mortgagor's breach of any condition thereof, or if Mortgagee determines that such coverage is unsatisfactory by reason of the failure or impairment of the capital of any company in which the insurance may then be carried or the lowering of such insurance carrier's rating from its rating on the date hereof, or if for any reason whatever the insurance shall, in Mortgagee's reasonable discretion, be unsatisfactory to Mortgagee, Mortgagor shall place new insurance on the Mortgaged Property, reasonably satisfactory to Mortgagee in its sole discretion.

(d) In the event of loss, Mortgagor will give prompt notice thereof to Mortgagee, and Mortgagee may make proof of loss if not made promptly by Mortgagor; provided, however, that any adjustment of a proof of loss shall require the prior written consent of Mortgagee. Such policies of insurance and all renewals thereof are hereby assigned to Mortgagee as additional security for payment of the Obligations and Mortgagor hereby agrees that after an Event of Default any values available thereunder upon cancellation or termination of any of said policies or renewals, whether in the form of return of premiums or otherwise, shall be payable to Mortgagee as assignee thereof. If Mortgagee becomes the owner of the Mortgaged Property or any part thereof by foreclosure or otherwise, such policies, including, without limitation, all right, title and interest of Mortgagor thereunder, shall become the absolute property of Mortgagee.

(e) Mortgagee shall retain and apply the proceeds of any such insurance to reduction of the Obligations, or to restoration or repair of the property damaged, in accordance with the terms of the Loan Agreement. Mortgagee's application of insurance proceeds to reduction of the Obligations shall not excuse or modify Mortgagor's obligation to continue to pay the installments of interest and principal required under the Note unless the amount of such insurance proceeds received by Mortgagee is sufficient to repay in full all of the Obligations.

6. Taxes and Other Charges.

(a) Mortgagor shall pay when due and payable and prior to the time interest, penalties or additions are due thereon, without any deduction, defalcation or abatement, all real estate taxes, charges, municipal assessments and liens, water and sewer rents, and other governmental levies and all other charges or claims of every nature and kind which may be assessed, levied, imposed, suffered, placed or filed at any time against Mortgagor, the Mortgaged Property or any part thereof or against the interest of Mortgagee therein, or which by any present or future law may have priority over the indebtedness secured hereby either in lien or in distribution out of the proceeds of any judicial or other sale (collectively "**Taxes**"); Mortgagor shall produce to Mortgagee, official receipts for the payment of Taxes; provided, however, that if, pursuant to this Mortgage, Mortgagor shall have deposited with Mortgagee before the due date thereof sums sufficient to pay any Taxes, and Mortgagor is not otherwise in default under



the Loan Documents, the Taxes shall be paid by Mortgagee. Mortgagor will not apply for or claim any deduction, by reason of this Mortgage, from the taxable value of all or any part of the Mortgaged Property. No credit shall be claimed or allowed on the interest payable on the Note because of any Taxes paid.

(b) Upon an Event of Default, Mortgagee has the right to require Mortgagor to procure for Mortgagee, at Mortgagor's expense, a real estate tax reporting service, and if Mortgagor fails to do so, Mortgagee may obtain such service directly and Mortgagor shall, upon demand, reimburse Mortgagee for the cost of such service.

7. Installments for Taxes and Other Charges. Without limiting the effect of Sections 5 and 6, as applicable, upon an event of Default and Mortgagee's request, Mortgagor shall pay to Mortgagee, monthly, with the monthly installments of interest or principal and interest, an amount equal to one-twelfth (1/12) of the annual Taxes ("***Escrow Items***"). On demand by Mortgagee from time to time, Mortgagor shall pay to Mortgagee any additional sums necessary to pay the Escrow Items, all as estimated by Mortgagee. The amounts paid by Mortgagor shall be security for the Escrow Items and shall be used in payment thereof if Mortgagor is not otherwise in default under the Loan Documents. No amount so paid shall be deemed to be trust funds but may be commingled with general funds of Mortgagee, and no interest shall be payable thereon. If, pursuant to the Loan Documents, the Obligations become due and payable, Mortgagee shall have the right, at its election, to apply any amount of Escrow Items held by Mortgagee against the Obligations. At Mortgagee's option, Mortgagee from time to time may waive, and after any such waiver may reinstate, the provisions of this Section requiring the monthly payments of Escrow Items.

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

9. Other Taxes. If any law or ordinance now or hereafter imposes a tax directly or indirectly on Mortgagee with respect to the Mortgaged Property (other than an income tax, withholding tax or foreign taxes), the value of Mortgagor's equity therein, or the Obligations secured by this Mortgage, Mortgagor shall have the right to contest such taxes but shall promptly pay such tax during the pendency of such contest. If Mortgagor fails to pay such tax or if Mortgagor is not lawfully permitted to pay such tax, Mortgagee, at its election, shall have the right at any time to give Mortgagor written notice declaring that the Obligations shall be due on a specified date not less than sixty (60) days thereafter; provided, however, that such election shall be ineffective if, prior to the specified date, Mortgagor lawfully pays the tax (in addition to all other payments required hereunder) and agrees to pay the tax whenever it becomes due and payable thereafter, which agreement shall then constitute a part of this Mortgage.

10. Assignment of Rents. Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all of Mortgagor's right, title and interest in and to all current and future Leases and Rents; it being intended by Mortgagor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms



of the Loan Agreement and provided there is no Event of Default, Mortgagee grants to Mortgagor a revocable license to (i) collect, receive, use and enjoy the Rents and Mortgagor shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Obligations, for use in the payment of such sums, and (ii) enforce the terms of, and perform the obligations of the landlord under, the Leases.

11. Security Agreement. This Mortgage constitutes a security agreement under the Uniform Commercial Code in effect in the state where the Land is situated and Mortgagor hereby grants to Mortgagee a security interest in all existing and future fixtures and other personal property (and the proceeds thereof) included in the Mortgaged Property which might be deemed "personal property." Mortgagor covenants to retain all of the Mortgaged Property within the county in which the Land is located, other than equipment which, subject to the terms of the Loan Agreement, may be removed. Upon any Event of Default under this Mortgage, Mortgagee shall have, in addition to any other rights and remedies under the Loan Documents, all of the rights and remedies granted to a secured party under the Uniform Commercial Code with respect to the fixtures. Upon an Event of Default under this Mortgage, Mortgagee shall have all of the rights and remedies set forth in the Loan Agreement with respect to the fixtures. Notwithstanding any release of any or all of that property included in the Mortgaged Property which is deemed "real property," any proceedings to foreclose this Mortgage or its satisfaction of record, the terms hereof shall survive as a security agreement with respect to the security interest created hereby and referred to above until the repayment or satisfaction in full of the Obligations.

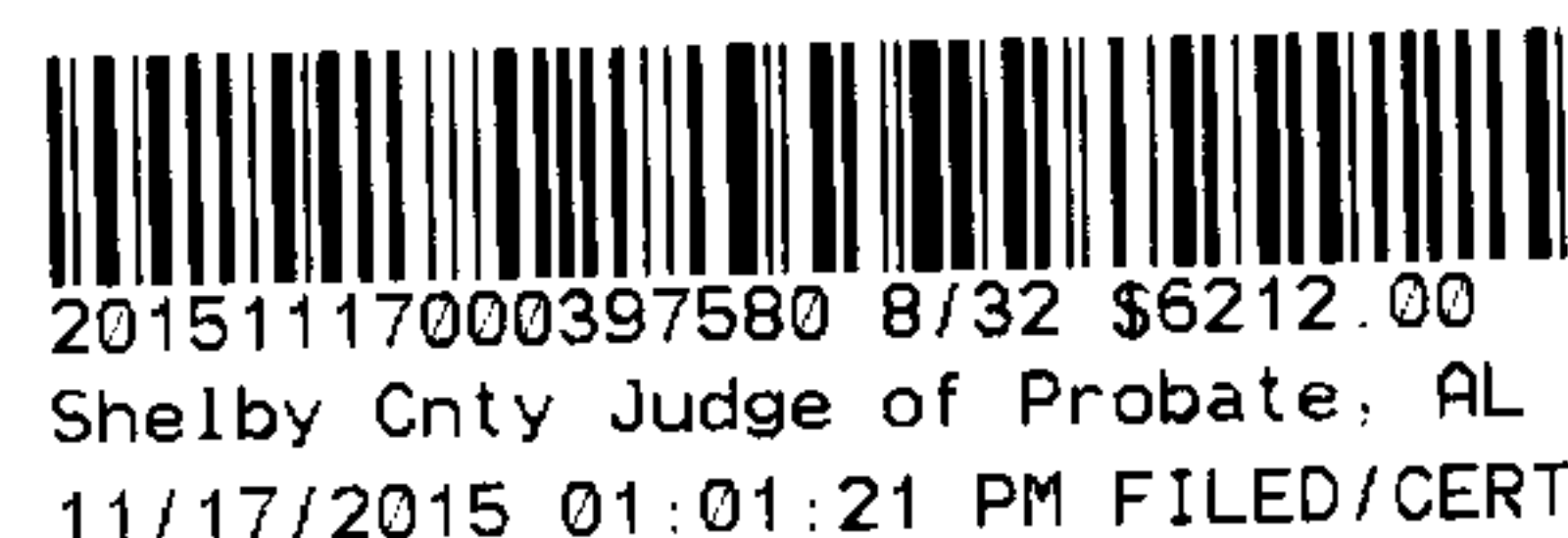
12. Compliance with Law and Other Matters.

(a) Mortgagor shall comply with all laws ordinances, regulations and orders (collectively "**Laws**") of all governmental authorities relating to the Mortgaged Property and the use and occupancy of the Mortgaged Property.

(b) Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses which may be made of the Mortgaged Property or any part thereof, without the prior written consent of Mortgagee. Mortgagor will not seek any variance under any existing zoning ordinance that could result in the use of the Mortgaged Property or any part thereof becoming a non-conforming use under any zoning ordinance or any other applicable land use law, rule or regulation. Mortgagor will not allow the Mortgaged Property or any part thereof to be used in any manner that could result in the use of the Mortgaged Property becoming a non-conforming use under any zoning ordinance or any other applicable land use law, rule or regulation.

(c) Mortgagor will comply with all restrictive covenants, easement agreements and other recorded documents affecting the Mortgaged Property. Mortgagor will not record or permit to be recorded any document, instrument, agreement or other writing against the Mortgaged Property without the prior written consent of Mortgagee.

(d) Mortgagor shall pay or cause to be paid when due all utility charges which are incurred by Mortgagor, whether public or private and whether or not such charges are or may become liens on the Mortgaged Property.





(e) Mortgagor agrees to subject to the lien of this Mortgage, in a form reasonably satisfactory to Mortgagee, all additional strips, gores, or parcels of land acquired by Mortgagor or any leasehold interest therein acquired by Mortgagor, which adjoin the Mortgaged Property, and all additional interest in and easements, rights and appurtenances to the Mortgaged Property above described and in and to said strips, gores and parcels, and to execute and deliver to Mortgagee such security agreements and extensions thereof as Mortgagee reasonably may request and promptly to pay Mortgagee's reasonable costs (including, without limitation, reasonable attorneys' fees and disbursements) in connection therewith and the title insurance premiums necessary to insure such additional land is encumbered by this Mortgage as a first lien thereon.

(f) While an Event of Default exists, Mortgagor agrees to deliver to Mortgagee, within fifteen (15) days after written request by Mortgagee, any and all plans, specifications, renderings, studies, analyses, reports or evaluations in the possession of Mortgagor with respect to the physical condition of, or the development or use of, the Mortgaged Property or any part thereof.

(g) The Mortgaged Property is used exclusively for the lease of the Mortgaged Property and its operation as a Walgreens Drugstore or similar retail store and other appurtenant and related uses. Mortgagor shall not suffer or permit the Mortgaged Property to be used by the public in such manner as might reasonably tend to impair Mortgagor's title to the Mortgaged Property or any portion thereof, or in such manner as might reasonably make possible a right or rights of adverse usage or adverse possession by the public, as such, or of implied dedication of the Mortgaged Property or any portion thereof.

(h) Mortgagor shall not suffer, permit, consent to or initiate the joint assessment of the Land or the Mortgaged Property (i) with any other real property constituting a tax lot separate from the Land or the Mortgaged Property and (ii) with respect to which any portion of the Land or the Mortgaged Property may be deemed to constitute personal property, or any other procedure whereby the lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to such real property portion of the Land or the Mortgaged Property.

(i) Mortgagor shall keep and maintain all Licenses (as defined below) necessary for the lease of the Mortgaged Property and its operation as a Walgreens Drugstore or similar retail store.

(j) Mortgagor shall continue to engage in the business presently conducted by it as and to the extent the same is necessary for the ownership, maintenance, management and operation of the Mortgaged Property. Mortgagor shall qualify to do business and shall remain in good standing under the laws of the State in which the Mortgaged Property is located and as and to the extent required for the ownership, maintenance, management and operation of the Mortgaged Property.

(k) Except in accordance with the express terms and conditions contained in the Loan Agreement, Mortgagor shall not cause or permit a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or grant of any options with respect to, or any other



transfer or disposition (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest in the Mortgaged Property or any part thereof, Mortgagor, any constituent owner or other holder of a direct or indirect equity interest in Mortgagor.

13. Required Notices. Mortgagor shall notify Mortgagee promptly of the occurrence of any of the following:

(a) A fire or other casualty causing damage in excess of \$25,000.00 to the Mortgaged Property;

(b) Receipt of notice of eminent domain proceedings or of any actual or threatened condemnation of the Mortgaged Property;

(c) Receipt of a notice from any governmental authority relating to the condition, structure, use or occupancy of the Mortgaged Property or any real estate adjacent to the Mortgaged Property;

(d) Receipt of any notice of default or threatened default, notice of lease termination or similar material notice from a tenant under any of the Leases; or

(e) A material change in the occupancy of the Mortgaged Property.

14. Condemnation.

(a) In the event of any condemnation or taking of any part of the Mortgaged Property by eminent domain, alteration of the grade of any street, or other injury to or decrease in the value of the Mortgaged Property by any public or quasi-public authority or corporation, all proceeds (that is, the award or agreed compensation for the damages sustained) allocable to Mortgagor or the Mortgaged Property, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit) including, without limitation, attorneys' fees and expenses incurred by Mortgagee in connection with the collection of such proceeds, shall be applied as set forth in this Section. No settlement for the damages sustained shall be made by Mortgagor without Mortgagee's prior written approval, which approval shall not be unreasonably withheld. All of the proceeds (i) are hereby assigned to and shall be paid to Mortgagee and (ii) shall be applied in the order and in the amounts that Mortgagee, in Mortgagee's sole discretion, may elect, to the payment of the Obligations secured by this Mortgage. Notwithstanding the foregoing sentence and provided that no Event of Default has occurred and is continuing, if Mortgagee determines that the Mortgaged Property can be restored to an economically viable condition not later than ninety (90) days prior to the maturity date of the Note, Mortgagee shall make the net condemnation proceeds available to Mortgagor, in advance, for the sole purpose of altering, restoring or rebuilding any part of the Mortgaged Property which may have been altered, damaged or destroyed as a result of the taking, alteration of grade or other injury to the Mortgaged Property. If Mortgagee elects to use any portion of any condemnation award or compensation to restore or rebuild any part of the Mortgaged Property in accordance with the preceding sentence, Mortgagee shall disburse the proceeds and the restoration shall be completed in accordance with the provisions of Section 5.01 of the Loan Agreement. Mortgagor, upon request by Mortgagee, shall make, execute and deliver any and all



instruments requested for the purpose of confirming the assignment of any awards and compensation described in this Section 13(a) to Mortgagee free and clear of any Liens of any kind or nature whatsoever.

(b) If, prior to the receipt of the proceeds by Mortgagee the Mortgaged Property shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive the proceeds to the extent of:

(i) the full amount of all such proceeds if Mortgagee is the successful purchaser at the foreclosure sale, or

(ii) if anyone other than Mortgagee is the successful purchaser at the foreclosure sale, any deficiency (as hereinafter defined) due to Mortgagee in connection with the foreclosure sale, with interest thereon at the highest applicable rate set forth in the Note, and reasonable counsel fees, costs and disbursements incurred by Mortgagee in connection with collection of such proceeds of condemnation and the establishment of such deficiency. For purposes of this subsection (b) (ii), the word "deficiency" shall be deemed to mean the difference between (A) the net sale proceeds actually received in cash by Mortgagee as a result of such foreclosure sale less any costs and expenses incurred by Mortgagee in connection with enforcement of its rights under the Loan Agreement, this Mortgage and the other Loan Documents and (B) the aggregate amount of the Obligations.

(c) Mortgagee shall have the right to prosecute to final determination or settlement an appeal or other appropriate proceedings in the name of Mortgagee or Mortgagor, for which Mortgagee is hereby appointed irrevocably as attorney-in-fact for Mortgagor, which appointment, being for security, is irrevocable. In that event, the expenses of the proceedings, including, without limitation, reasonable counsel fees and expenses, shall be paid first out of the proceeds, and only the excess, if any, paid to Mortgagee shall be credited against the amounts due under this Mortgage.

(d) Nothing herein shall limit the rights otherwise available to Mortgagee, at law or in equity, including, without limitation, the right to intervene as a party to any condemnation proceeding.

15. Completion of Construction. Mortgagor shall complete and timely pay for any construction which is commenced at any time on the Mortgaged Property free of any mechanics liens or other liens. All such construction shall comply with all applicable Laws and shall be performed in a good and workmanlike manner. Nothing contained in this Section shall be deemed to waive any right Mortgagee may have under the Loan Documents to approve construction on the Mortgaged Property.

16. Leases.

(a) Mortgagor hereby represents that there are no leases or agreements to lease all or any part of the Mortgaged Property now in effect except the Lease between Mortgagor and Walgreen Co., an Illinois corporation, dated June 27, 2003. There are no prior sales, transfers or assignments of the Leases or any portion of the rents due and payable or to become due and payable which are presently outstanding following the funding of the Revolving



Loan, other than those being terminated or assigned to Mortgagee concurrently herewith. Mortgagor agrees not to enter into any Leases or agreements to lease all or any part of the Mortgaged Property or to modify, amend, terminate or consent to the surrender of, or assign its interest in, any Leases or to permit the tenant or subtenant thereunder to subordinate its Leases to any lien subordinate to this Mortgage, without the prior written consent thereof by Mortgagee in each instance.

(b) Mortgagor shall (i) observe and perform the obligations imposed upon the lessor under the Leases in a commercially reasonable manner and (ii) enforce the terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed or performed in a commercially reasonable manner. Mortgagor shall cause each lessee under each Lease to (i) pay all rents, (ii) diligently perform and observe all of the terms, covenants and conditions of such Lease on the part of such lessee, as tenant thereunder, (iii) promptly deliver to Mortgagee copies of any notice of default by any party under such Lease, or of any notice given by Mortgagor as landlord under such Lease to terminate such Lease or to re-enter and take possession of any portion of the Mortgaged Property, immediately upon delivery of such notice, and (iv) promptly notify Mortgagee of any bankruptcy, reorganization or insolvency any lessee under such Lease or of any notice thereof, and deliver to Mortgagee a true copy of such notice within five (5) Business Days of Mortgagor's receipt thereof.

(c) Mortgagor shall not permit any lessee under any Lease, without prior written consent of Mortgagee, to surrender the leasehold estate created by such Lease or terminate, cancel or disaffirm such Lease or modify, change, surrender, supplement, alter or amend such Lease, either orally or in writing.

(d) If Mortgagor as landlord under any Lease shall deliver to Mortgagee a copy of any notice of default under such Lease, such notice shall constitute full protection to Mortgagee for any action taken or omitted to be taken by Mortgagee, in good faith, in reliance thereon.

(e) Mortgagor shall deliver a copy of any notice of a lessee's intention to exercise an option to renew or extend the term of such Lease, within three (3) business days of receipt but in any event no less than thirty (30) days prior to the expiration of the time to exercise such option under the terms of such Lease.

(f) If a lessee under a Lease intends to renew or extend the term of the applicable Lease, Mortgagor shall deliver to Mortgagee, with the notice of such decision, a copy of the notice of renewal or extension delivered to Mortgagor as landlord under such Lease, together with the terms and conditions of such renewal or extension.

(g) Upon receipt by Mortgagor, from time to time, of any security deposit, prepaid rent (other than prepaid rent for the next succeeding calendar month), or similar payments by a tenant, subtenant, licensee or other user of the Mortgaged Property, Mortgagor shall deposit such sum in a separate escrow account with a national or state bank having banking offices in the state in which the Mortgaged Property is located. Mortgagor shall promptly give Mortgagee written notice of the name and address of the bank and the account number of the escrow account. Mortgagor shall also give written authorization to such bank to permit



Mortgagee to receive any information requested by Mortgagee from the bank as to the status and balance of such account. Said sums shall be held in trust by Mortgagor and disbursed only upon the prior written approval of Mortgagee, which approval shall not be unreasonably withheld. The prior written consent of Mortgagee shall not be required when by law (or agreement approved by Mortgagee) Mortgagor is required to return any of such sums to the party who deposited it with Mortgagor. Mortgagor hereby assigns all of such bank accounts to Mortgagee as collateral security for the Obligations and Mortgagor agrees that after an Event of Default by Mortgagor under the Loan Documents, the sums in said bank accounts shall, at the election of Mortgagee, be payable to Mortgagee as assignee of such bank account; provided, however, that Mortgagee shall have no liability for any prior misapplication of said sums by Mortgagor.

17. Right to Remedy Defaults.

(a) If Mortgagor should fail to pay corporate taxes, Taxes, sums due under any Permitted Lien against the Mortgaged Property, or insurance premiums, or any sums payable by Mortgagor pursuant to the Leases, or fail to make necessary repairs to the Mortgaged Property, or permit waste to the Mortgaged Property, or shall otherwise fail to perform its obligations under this Mortgage, Mortgagee, at its election, after giving Mortgagor three (3) Business Days' notice of such failure (or such additional time as may be commercially reasonable in the event Mortgagor has commenced to cure and is diligently proceeding with such cure), except in an emergency in which case no such notice shall be required, shall have the right to make any payment or expenditure and to take any action which Mortgagor should have made or taken, or which Mortgagee deems advisable to protect the security of this Mortgage or the Mortgaged Property, without prejudice to any of Mortgagee's rights or remedies available hereunder or otherwise, at law or in equity. Such payment by Mortgagee shall not release Mortgagor from Mortgagor's obligations or constitute a waiver of Mortgagor's default under this Mortgage.

(b) Mortgagee in making any payment authorized by this Section 17: (i) relating to Taxes and corporate taxes, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of the Tax or claim thereof; or (ii) for the purchase, discharge, compromise or settlement of any other Lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (iii) for the payment of any sums to cure any default under the Leases, may do so without inquiry as to the validity or amount of any claimed default thereunder, unless Mortgagee has received written notice from Mortgagor that Mortgagor is disputing any such claim and is diligently pursuing resolution to such matter. In exercising its rights hereunder Mortgagee may, but need not, make full or partial payments on any Lien, if any, and purchase, discharge, compromise or settle any tax lien or other Lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Mortgaged Property or contest any tax. Such payments will be deemed made by Mortgagee at Mortgagor's request and Mortgagee shall be subrogated to any and all rights and liens held by the owner or holder of any Lien, irrespective of whether such Lien is released or satisfied.

(c) All such sums, as well as costs, advanced by Mortgagee pursuant to this Mortgage shall be due immediately from Mortgagor to Mortgagee, shall be secured by this Mortgage and the lien therefore shall relate back to the date of this Mortgage, and such sums, as



well as costs, shall bear interest at the highest applicable default rate under the Loan Agreement from the date of payment by Mortgagee until the date of repayment to Mortgagee.

18. Events of Default. Each of the following shall constitute an “*Event of Default*” under this Mortgage:

(a) Mortgagor’s non-performance or non-compliance with any of the other agreements, conditions, covenants, provisions or stipulations contained in this Mortgage and the continuance of such default for thirty (30) days after the occurrence thereof;

(b) Walton’s non-performance or non-compliance with any of the other agreements, conditions, covenants, provisions or stipulations contained in that certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, dated as of the date hereof, between Walton and Mortgagee, and the continuance of such default for thirty (30) days after the occurrence thereof; or

(c) The occurrence of an Event of Default under the Loan Agreement, the Guaranty or any other Loan Document.

19. Remedies.

(a) Upon the occurrence of an Event of Default, Mortgagee may exercise all rights and remedies under the Loan Agreement.

(b) Without limiting the foregoing, upon the occurrence of an Event of Default, Mortgagee may also immediately pursue one or more of the following remedies:

(i) Foreclosure. Mortgagee may institute an action of mortgage foreclosure against the Mortgaged Property, or take such other action at law or in equity for the enforcement of this Mortgage and realization on the mortgage security or any other security herein or elsewhere provided for, as the law may allow, and may proceed therein to final judgment and execution for the entire unpaid balance of the Obligations, with interest at the highest applicable default rate set forth in the Loan Agreement (or as otherwise provided by applicable law), together with all other sums due by Mortgagor in accordance with the provisions of this Mortgage and the other Loan Documents, including, without limitation, all sums which may have been loaned by Mortgagee to Mortgagor on or after the date of this Mortgage, and all sums which may have been advanced by Mortgagee for Taxes, payments on Liens, insurance premiums, utilities or repairs to the Mortgaged Property and other sums which Mortgagee is permitted to advance pursuant to the terms of this Mortgage and/or applicable law, all costs of suit, together with interest at such rate on any judgment obtained by Mortgagee from and after the date of any sheriff or other judicial sale until actual payment is made of the full amount due Mortgagee, and all Expenses.

(ii) Possession. Mortgagee may enter into possession of the Mortgaged Property, with or without legal action, collect therefrom all rentals (which term shall include, without limitation, sums payable for use and occupation) and, after deducting all costs of collection and administration expenses, apply the net rentals to any or all of the following in such order and amounts as Mortgagee, in Mortgagee’s sole discretion, may elect: the payment of



any sums due under any Lien, Taxes, insurance premiums and all other carrying charges, and to the maintenance, repair or restoration of the Mortgaged Property, and on account and in reduction of the Obligations; in and for that purpose, Mortgagor hereby assigns to Mortgagee all rentals due and to become due under the Leases or rights to use and occupy the Mortgaged Property hereafter created, as well as all rights and remedies provided in such Leases or at law or in equity for the collection of the rentals. The taking of possession and collections of rents by Mortgagee shall not be construed to be an affirmation of any Leases or acceptance of attornment with respect to any Leases of all or any portion of the Mortgaged Property. Mortgagee, in its discretion, may, as attorney in fact or agent of Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the Mortgaged Property and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Mortgaged Property, including, without limitation, actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power to: (i) cancel or terminate any Leases for any cause or on any ground which would entitle Mortgagor to cancel the same; (ii) elect to disaffirm any Leases which are then subordinate to the lien of this Mortgage; (iii) extend or modify any then existing Leases and to make new Leases, which extensions, modifications and new Leases may provide for terms to expire, or for options to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Mortgaged Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (iv) enter into any management, leasing or brokerage agreements covering the Mortgaged Property.

(c) Mortgagee shall have the right, from time to time, to bring an appropriate action to recover any Obligations without prejudice to the right of Mortgagee thereafter to bring an action of mortgage foreclosure, or any other action, for any Event of Default by Mortgagor existing at the time the earlier action was commenced.

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

(e) Upon, or at any time after the filing of an action to foreclose this Mortgage, the court in which such action is filed may, at the request of Mortgagee, appoint a receiver of the Mortgaged Property. Such appointment may be made either before or after any sale of the Mortgaged Property, without notice to Mortgagor, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to either the then value of the Mortgaged Property, the adequacy or inadequacy of any remedy available at law, or the solvency or insolvency of any other person liable to pay the Obligations. Such receiver shall have the power to perform all of the acts permitted Mortgagee pursuant to



subsection (b) (ii) above and such other powers which may be necessary or are customary in such cases for the protection, possession, control, management and operation of the Mortgaged Property during such period.

(f) Subject to any applicable subordination, non-disturbance and attornment agreement, Mortgagee may, at its sole option, disaffirm and cancel any Leases which are subordinate to this Mortgage at any time before the expiration of sixty (60) days after Mortgagee acquires the legal title to the Mortgaged Property by sheriff's deed or any other transfer of legal title to the Mortgaged Property pursuant to the exercise of a remedy hereunder or otherwise, even though Mortgagee shall have enforced such Leases, collected rents thereunder or taken any action that might be deemed by law to constitute an affirmation of the Leases. Such disaffirmance shall be made by written notice addressed to the applicable tenants at the Mortgaged Property or, at Mortgagee's option, such other address of such tenants as may be provided in the Leases.

(g) Mortgagor, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of a Lien junior to the lien of this Mortgage, hereby expressly waives and releases all rights to direct the order in which any of the Mortgaged Property shall be sold in the event of any sale or sales pursuant hereto and to have any of the Mortgaged Property and/or any other property now or hereafter constituting security for any of the Obligations marshalled upon any foreclosure of this Mortgage or of any other security for any of said indebtedness.

(h) If Mortgagor is an occupant of part or all of the Mortgaged Property, Mortgagor shall immediately upon any acceleration after an Event of Default hereunder surrender the possession thereof to Mortgagee and if Mortgagor remains in possession, such possession shall be as tenant at sufferance of Mortgagee, and Mortgagor shall pay monthly in advance to Mortgagee such rent for the premises so occupied as Mortgagee may reasonably demand, and in default of so doing Mortgagor may be dispossessed by summary proceedings or otherwise with or without any action being brought to foreclose this Mortgage and without applying for a receiver to collect the rents. In case of the appointment of a receiver of rents and profits of the Mortgaged Property, the covenants of this Section may be enforced by such receiver.

(i) Upon any sale made under or by virtue of this Section 18, Mortgagee may bid for and then acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefore may make settlement for the purchase price by crediting upon the Obligations of Mortgagor the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage or under any of the Loan Documents.

(j) Mortgagee may sell the Mortgaged Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, including, without, limitation, pursuant to the non-judicial foreclosure procedures set forth in the applicable law of the State in which the Mortgaged Property is located, at one or more sales, in whole or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law, and



in the event of a sale, by foreclosure or otherwise, of less than all of the Mortgaged Property, this Mortgage shall continue as a lien on the remaining portion of the Mortgaged Property.

(k) The holder of this Mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver in accordance with the applicable law of the State in which the Mortgaged Property is located.

(l) If Mortgagee shall have the right to foreclose this Mortgage, Mortgagor authorizes Mortgagee at its option to foreclose this mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties defendant to any such foreclosure proceeding and to foreclose their rights will not be asserted by Mortgagor as a defense to any proceeding instituted by Mortgagee to collect the Obligations or any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property, it being expressly understood and agreed, however, that nothing herein contained shall prevent Mortgagee from asserting in any proceeding disputing the amount of the deficiency or the sufficiency of any bid at such foreclosure sale, that any such tenancies adversely affect the value of the Mortgaged Property.

## 20. Rights and Remedies Cumulative.

(a) The rights and remedies of Mortgagee as provided in this Mortgage and the other Loan Documents and in the warrants attached thereto or contained therein shall be cumulative and concurrent; may be pursued separately, successively or together against Mortgagor or against the Mortgaged Property, or both, at the sole discretion of Mortgagee, and may be exercised as the need to exercise such rights and remedies shall arise. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

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

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



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

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

(f) The receipt by Mortgagee of any sums from Mortgagor after the date on which Mortgagee elects to accelerate the Obligations by reason of an Event of Default hereunder shall not constitute a cure or waiver of such default or a reinstatement of this Mortgage or the other Loan Documents unless Mortgagee expressly agrees, by written notice to Mortgagor, that such payment shall be accepted as a cure or waiver of the default.

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

(a) All procedural errors, defects and imperfections in any proceeding instituted by Mortgagee under the Note, this Mortgage or any other Loan Document;

(b) All benefit that might accrue to Mortgagor by virtue of any present or future law, exempting the Mortgaged Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any stay of execution, exemption from civil process or extension of time for payment; and

(c) Unless specifically required herein, all notices of Mortgagor's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise of, any option under the Leases, the Note, this Mortgage or any other Loan Document.

22. Further Assurances. Mortgagor will execute and deliver such further instruments and perform such further acts as may be reasonably requested by Mortgagee from time to time to confirm the priority of the lien created by this Mortgage on any property, rights or interest encumbered or intended to be encumbered by the lien of this Mortgage or the other Loan Documents.

23. Representations and Warranties. Mortgagor represents, warrants and covenants to and with Mortgagee that:

(a) There are no pending or, to the best of Mortgagor's knowledge, threatened proceedings or actions to revoke, invalidate, rescind, or modify the zoning classification or status of the Land or the Mortgaged Property, or any building, occupancy or other permits heretofore issued with respect thereto, or asserting that such zoning or permits do not permit either the current or proposed use of the Land or the Mortgaged Property.

(b) There are no Leases or other arrangements for occupancy of space within the Land or the Mortgaged Property other than Leases previously furnished to Mortgagee in accordance with the Closing Checklist. The certified rent roll delivered to Mortgagee in accordance with the Closing Checklist is true, complete and correct in all material respects as of the date set forth herein. No Person has any possessory interest in the Land or the Mortgaged



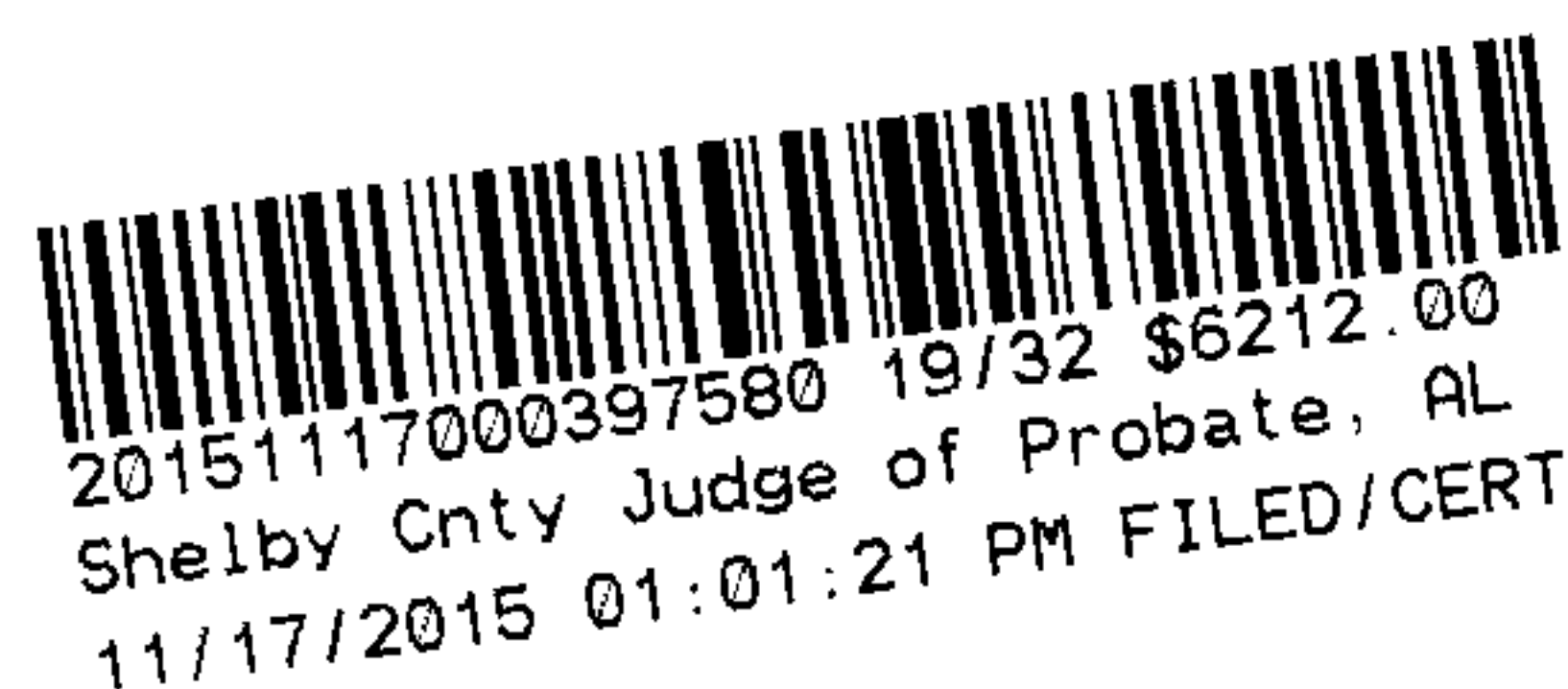
Property or right to occupy the same except under and pursuant to the provisions of the Leases. The current Leases are in full force and effect and, to the best of Mortgagor's knowledge, there are no material defaults thereunder by either party (other than as expressly disclosed on the certified rent roll or the tenant estoppels certificates delivered to Mortgagee) and there are no conditions that, with the passage of time or the giving of notice, or both, would constitute material defaults thereunder. No rent has been paid more than one month in advance of its due date, except as disclosed in the tenant estoppels certificates delivered to Mortgagee. There has been no prior sale, transfer or assignment, hypothecation or pledge by Mortgagor of any Lease or rents which will be outstanding following the funding of the Revolving Loan, other than those being assigned to Mortgagee concurrently herewith. No tenant under any Lease has a right or option to purchase such Lease or otherwise purchase all or any part of the Land or the Mortgaged Property or any other Collateral.

(c) No condemnation by any governmental authority of any portion of the Land or the Mortgaged Property or any roadways or other access ways abutting the Land or the Mortgaged Property, has commenced or, to the best of Mortgagor's knowledge, is contemplated.

(d) The Land and the Mortgaged Property have access to and adequate supply of water, electricity, gas, storm and sanitary sewerage and other required public utilities to serve the present and contemplated uses of the Land and the Mortgaged Property, fire and police protection, and free means of appropriate vehicular and pedestrian access between the Land, the Mortgaged Property and public ways and highways; and none of the foregoing will be delayed or impeded by virtue of any requirements under any applicable laws including, without limitation, environmental protection laws; and that all of the foregoing comply with all applicable laws including, without limitation, environmental protection laws. All utilities necessary to the existing use of the Land and the Mortgaged Property are located either in the public right-of-way abutting the Land and the Mortgaged Property (which are connected so as to serve the Land and the Mortgaged Property without passing over other property) or in recorded easements serving the Land and the Mortgaged Property and such easements are set forth and insured by the title insurance policy insuring the lien of this Mortgage. All roads necessary for the use of the Land and the Mortgaged Property for their current purposes have been contemplated and, if necessary, dedicated to public use.

(e) The Improvements located on the Land and in the Mortgaged Property do not encroach upon any building restriction line, setback line, side yard line, or any recorded or visible easement (or other easement of which Mortgagor has knowledge or has reason to believe may exist with respect to the Land and the Mortgaged Property), and no Improvements on adjoining properties encroach upon the Land or the Mortgaged Property, and no easements or other encumbrances upon the Land or the Mortgaged Property encroach upon any of the Improvements, in each case except as disclosed in the title policy insuring the lien of this Mortgage.

(f) None of the Improvements located on the Land or in the Mortgaged Property are located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards.





(g) To the best of Mortgagor's knowledge, all Improvements located on the Land and on the Mortgaged Property including, without limitation, all buildings, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems, HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and other structural components are in good condition, order and repair in all material respects; to the best of Mortgagor's knowledge, there exists no structural or other material defects or damages in or to the Mortgaged Property, whether latent or otherwise, and Mortgagor has not received any written notice from any insurance company or bonding company of any defects or inadequacies in the Mortgaged Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

(h) If any construction has occurred at the Land or the Mortgaged Property within the last twelve (12) months, the construction has been completed substantially in accordance with the applicable laws and governmental approvals and, all such improvements are in good working order and are structurally sound and fit for their current use.

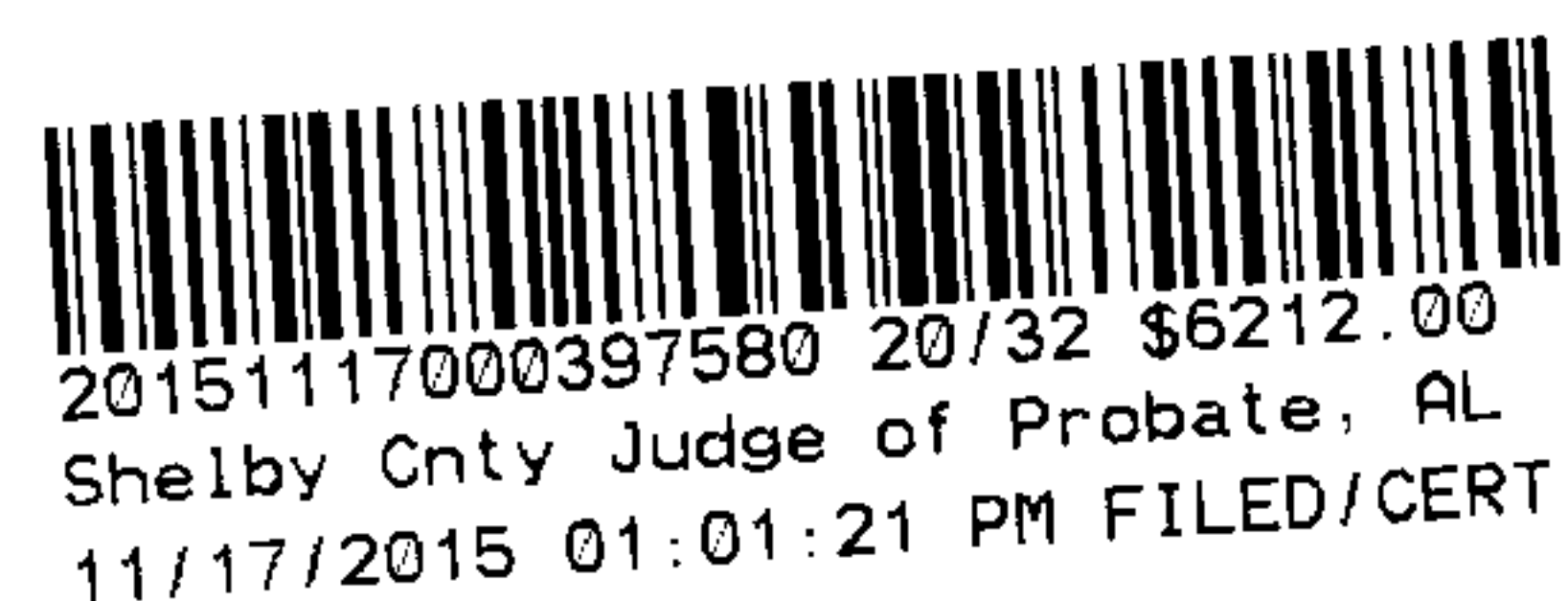
(i) The Land and the Mortgaged Property are comprised of one or more contiguous parcels and are taxed separately without regard to any other property, and for all purposes the Mortgaged Property may be mortgaged, conveyed, and otherwise dealt with as an independent parcel.

(j) Mortgagor is not a "foreign person" within the meaning of Sections 1445 or 7701 of the Internal Revenue Code.

(k) All certifications, permits, licenses and approvals including, without limitation, certificates of completion and occupancy permits required of Mortgagor for the legal use, occupancy and operation of the Mortgaged Property as a Walgreens Drugstore or similar retail store (collectively, the "**Licenses**") have been obtained and are in full force and effect. The use being made of the Mortgaged Property is in conformity with the certificate of occupancy issued for the Mortgaged Property.

(l) All transfer taxes, deed stamps, intangible taxes and other amounts in the nature of transfer taxes required to be paid by any Person under applicable laws currently in effect in connection with the transfer of the Mortgaged Property to Mortgagor have been paid. All mortgage, mortgage recording, stamp, intangible and other similar taxes required to be paid by any Person under applicable laws currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, this Mortgage, have been paid.

(m) There are no pending or proposed special or other assessments for public improvements or otherwise affecting the Land or the Mortgaged Property, nor are there any contemplated improvements to the Land or the Mortgaged Property that may result in such special or other assessments.





24. Severability and Savings Clauses. If any provision of this Mortgage is held to be invalid or unenforceable by a Court of competent jurisdiction, the other provisions of this Mortgage shall remain in full force and effect and shall be liberally construed in favor of Mortgagee in order to effect the remaining provisions of this Mortgage.

25. Commercial Loan.

(a) This Mortgage does not encumber real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each having its own separate cooking facilities.

(b) Mortgagor hereby stipulates and warrants that the loan secured hereby is a commercial loan, and that all of the proceeds of such loan will be used solely to acquire or carry on a business or commercial enterprise.

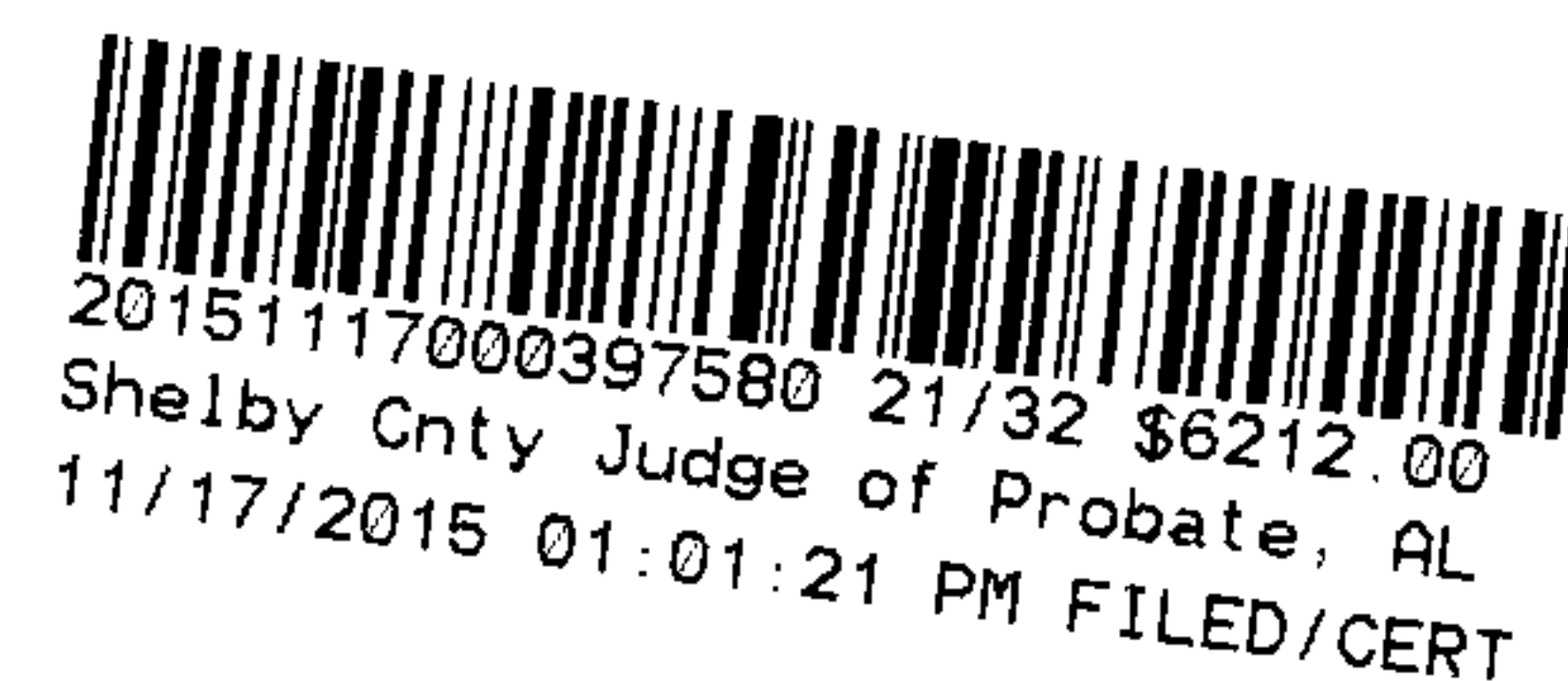
26. Notices.

(a) All notices, consents and other communications provided for hereunder shall be in writing (including fax communication and any other method of communication authorized by Mortgagee) and faxed or sent by a reputable overnight courier or delivery service to Mortgagee or Mortgagor at the address or fax number set forth below, or to Mortgagee or Mortgagor at such other address or fax number as shall be designated by such party in a written notice to the other party or, in the case of a change of Mortgagor's address or fax number, as may be requested by Mortgagor by telephonic notice and confirmed in writing by Mortgagee.

If to Mortgagee: Morgan Stanley Private Bank, National  
Association  
c/o Morgan Stanley Smith Barney LLC  
2000 Westchester Avenue, Floor 2NE  
Purchase, New York 10577  
Attention: Portfolio Management  
Telecopy No. (914) 225-9110

with copies to: Alston & Bird LLP  
101 S. Tryon Street, Suite 4000  
Charlotte, North Carolina 28280  
Attention: Michael T. Cecka, Esq.  
Telecopy No. (704) 444-1766

If to Mortgagor: Lee Branch LLC  
147 2<sup>nd</sup> Avenue South, Suite 400  
St. Petersburg, Florida 33701  
Attention: Richard K. Maloof and William C.  
Lloyd  
Telecopy No. (727) 821-5461





with copies to:

James V. Stewart, Esq.  
1670 Pelican Creek Crossing  
St. Petersburg, Florida 33707

(b) Any notice sent by Mortgagee or Mortgagor by any of the above methods shall be deemed to be given when so received by Mortgagee or Mortgagor.

(c) Mortgagee shall be fully entitled to rely upon any facsimile transmission or other writing purported to be sent by any authorized officer of Mortgagor as being genuine and authorized.

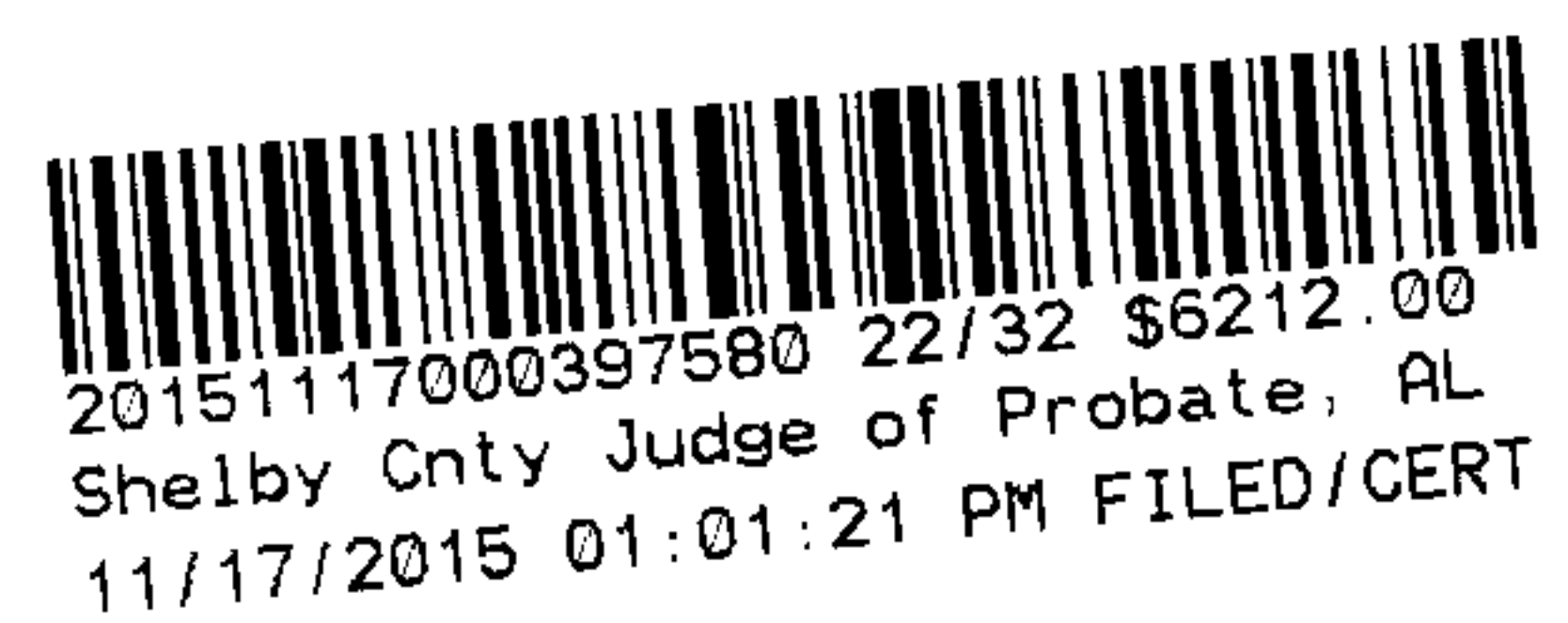
(d) Time of Essence. Time shall be of the essence of each provision of this Mortgage of which time is an element.

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

28. Amendment. This Mortgage cannot be changed or amended except by agreement in writing signed by the party against whom enforcement of the change or amendment is sought to be enforced.

29. Applicable Law. This Mortgage was negotiated in the State of New York and made by Mortgagor and accepted by Mortgagee in the State of New York, and the proceeds of the Note were disbursed from the State of New York, which State the parties agree has a substantial relationship to the parties and to the underlying transaction embodied hereby, and in all respects, including, without limiting the generality of the foregoing, matters of construction, validity and performance, this Mortgage and the obligations arising hereunder shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and performed in such State (without regard to principles of conflict laws) and any applicable law of the United States of America, except that at all times the provisions for the creation, perfection and enforcement of the interests created pursuant hereto and pursuant to the other Loan Documents with respect to the Mortgaged Property shall be governed by and construed according to the law of the state in which the Mortgaged Property is located, it being understood that, to the fullest extent permitted by the law of the State of New York, the law of the State of New York shall govern the construction, validity and enforceability of all Loan Documents and all of the obligations arising hereunder or thereunder. To the fullest extent permitted by law, Mortgagor hereby unconditionally and irrevocably waives any claim to assert that the law of any other jurisdiction governs this Mortgage, the Note or any other Loan Document.

30. Financing Statement. This Mortgage is effective as a financing statement which is filed as a "fixture filing" pursuant to Section 9-502 (or any other applicable section) of the Uniform Commercial Code from the date of recordation of this Mortgage with respect to the following types of goods which are or will be fixtures related to the Mortgaged Property:





Fixtures, equipment, appliances and furnishings and the items set forth in the granting clauses of this Mortgage and on Exhibit B hereto.

For the purpose of this Paragraph, Mortgagor is the Debtor, and Mortgagee is the Secured Party and their addresses are as set forth in the recitals of this Mortgage. The record owner of the Land and the Mortgaged Property is Mortgagor.

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

(a) The word “**Mortgagor**” shall mean the person who executes this Mortgage as “Mortgagor” and any subsequent owner of the Mortgaged Property and its respective heirs, executors, administrators, successors and assigns;

(b) The word “**Mortgagee**” shall mean the person specifically named herein as “Mortgagee” or any subsequent holder of this Mortgage;

(c) “**Expenses**” shall mean all out-of-pocket fees, charges, costs and expenses of any nature whatsoever incurred at any time and from time to time (whether before or after an Event of Default) by Mortgagee in making, funding, administering or modifying the Revolving Loan, in negotiating or entering into any workout of the Revolving Loan, or in exercising or enforcing any rights, powers and remedies provided in this Mortgage or any of the other Loan Documents, including, without limitation, reasonable attorneys’ fees and expenses, court costs, receiver’s fees, management fees and costs incurred in the repair, maintenance and operation of, or taking possession of, or selling, all or any part of the Mortgaged Property.

(d) “**Impositions**” means all ground rents and all taxes (including, without limitation, all real estate, ad valorem or value added, sales (including, without limitation, those imposed on lease rentals), use, single business, gross receipts, intangible transaction privilege, privilege, license or similar taxes), assessments (including, without limitation, to the extent not discharged prior to the date hereof, all assessments for public improvements or benefits, whether or not commenced or completed within the term of the Revolving Loan), water, sewer or other rents and charges, excises, levies, fees (including, without limitation, license, permit, inspection, authorization and similar fees), and all other governmental charges, in each case whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every character in respect of the Mortgaged Property, (including all interest and penalties thereon), which at any time prior to, during or in respect of the term hereof may be assessed or imposed on or in respect of or be a Lien upon (i) Mortgagor (including, without limitation, all income, franchise, single business or other taxes imposed on Mortgagor for the privilege of doing business in the jurisdiction in which the Mortgaged Property is located) or Mortgagee (including, without limitation, taxes resulting from future changes in law which impose upon Mortgagee or any trustee an obligation to pay any property taxes or other taxes or which otherwise adversely affect Mortgagee’s interests), (ii) the Mortgaged Property or any part thereof, or (iii) any occupancy, operation, use or possession of, or sales from, or activity conducted on, or in connection with the Mortgaged Property or the leasing or use of the Mortgaged Property or any part thereof, or the acquisition or financing of the acquisition of the Mortgaged Property by Mortgagor.



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

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

(g) The following phrase shall have the following meanings: (i) "including" shall mean "including but not limited to," (ii) "provisions" shall mean "provisions, terms, covenants and/or conditions," (iii) "lien" shall mean "lien, charge, encumbrance, security interest, mortgage and/or deed of trust," (iv) "obligation" shall mean "obligation, duty, covenant and/or condition," (v) "any of the Mortgaged Property" shall mean "the Mortgaged Property or any part thereof or interest therein," and (vi) "Partnership" shall mean "partnership or joint venture" and "partner" shall mean "partner or joint venturer."

(h) Any act which Mortgagee is permitted to perform under the Loan Documents may be performed at any time and from time to time by Mortgagee or any person or entity designated by Mortgagee.

(i) Any act which Mortgagor is required to perform under the Loan Documents shall be performed at Mortgagor's sole cost and expense.

(j) Any act which is prohibited to Mortgagor under the Loan Documents is also prohibited to all tenants or other occupants of any of the Land and the Mortgaged Property.

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

(l) All Exhibits attached hereto are hereby incorporated by reference into, and made a part of, this Mortgage.

(m) This Mortgage may be executed in counterparts, each of which, together with all counterparts, shall be deemed one Mortgage. This Mortgage shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

(n) Definitions contained in this Mortgage which identify documents, including the Loan Documents, shall be deemed to include all amendments and supplements to such documents from the date hereof, and all future amendments and supplements thereto entered into from time to time to satisfy the requirements of this Mortgage or otherwise with the consent of Mortgagee. Reference to this Mortgage contained in any of the foregoing documents shall be deemed to include all amendments and supplements to this Mortgage.

32. No Third Party Benefits. This Mortgage and the other Loan Documents are made for the sole benefit of Mortgagor and Mortgagee and their successors and assigns, and no other party shall have any legal interest of any kind under or by reason of any of the foregoing. Whether or not Mortgagee elects to employ any or all the rights, powers or remedies available to it under any of the foregoing, Mortgagee shall have no obligation or liability of any kind to any third party by reason of any of the foregoing or any of Mortgagee's actions or omissions



pursuant thereto or otherwise in connection with the transaction evidenced by the Note and secured by this Mortgage.

33. Failure of Mortgagee to Perform.

(a) Mortgagee shall not be liable to Mortgagor for consequential damages, whatever the nature of a breach by Mortgagee of its obligations under this Mortgage, or any of the other Loan Documents, and Mortgagor for itself and all parties claiming through Mortgagor hereby waives all claims for consequential damages.

(b) Mortgagee shall not be in default under this Mortgage, or under any other Loan Documents, unless a written notice specifically setting forth the claim of Mortgagor shall have been given to Mortgagee within thirty (30) days after Mortgagor first had knowledge of, or reasonably should have had knowledge of, the occurrence of the event which Mortgagor alleges gave rise to such claim and Mortgagee does not remedy or cure the default, if any there be, promptly thereafter.

(c) Any action taken by Mortgagee to inspect the Mortgaged Property, and to approve leases and all other documents and instruments submitted to Mortgagee, will be exercised and taken by Mortgagee for its own protection only and may not be relied upon by Mortgagor or any other party for any purposes whatever; and Mortgagee shall not be deemed to have assumed any responsibility to Mortgagor or any other party with respect to any such action herein authorized or taken by Mortgagee with respect to the proper construction of improvements on the Mortgaged Property, or performance under any lease or other agreement. Any review, investigation or inspection conducted by Mortgagee, any architectural or engineering consultants retained by Mortgagee or any agent or representative of Mortgagee in order to verify independently Mortgagor's satisfaction of any conditions precedent to loan disbursements, Mortgagor's performance of any of the covenants, agreements and obligations of Mortgagor, or the truth of any representations and warranties made by Mortgagor hereunder or under any of the Loan Documents (regardless of whether or not the party conducting such review, investigation or inspection should have discovered that any of such conditions precedent were not satisfied or that any such covenants, agreements or obligations were not performed or that any such representations or warranties were not true), shall not affect (or constitute a waiver by Mortgagee of) (i) any of Mortgagor's representations and warranties under this Mortgage or any of the other Loan Documents or Mortgagee's reliance thereon or (ii) Mortgagee's reliance upon any certifications of Mortgagor under the Loan Documents or any other facts information or reports furnished to Mortgagee by Mortgagor.

34. WAIVER OF TRIAL BY JURY. MORTGAGOR AND MORTGAGEE EACH HEREBY WAIVE ANY AND ALL RIGHTS IT MAY HAVE TO A JURY TRIAL IN CONNECTION WITH ANY LITIGATION, PROCEEDING OR COUNTERCLAIM ARISING WITH RESPECT TO RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO OR UNDER THE LOAN DOCUMENTS OR WITH RESPECT TO ANY CLAIMS ARISING OUT OF ANY DISCUSSIONS, NEGOTIATIONS OR COMMUNICATIONS INVOLVING OR RELATED TO ANY PROPOSED RENEWAL, EXTENSION, AMENDMENT, MODIFICATION, RESTRUCTURE, FORBEARANCE, WORKOUT, OR ENFORCEMENT OF THE TRANSACTIONS CONTEMPLATED BY THE LOAN DOCUMENTS.



35. Consequential Damages. Neither Mortgagee nor any agent or attorney of Mortgagee, shall be liable for any consequential damages arising from any breach of contract, tort or other wrong relating to the establishment, administration or collection of the Obligations.

36. Copy of Mortgage. Mortgagor hereby declares and acknowledges that it has received, without charge, a true copy of this Mortgage.

37. Notice to Prior Lien Holders. Mortgagor hereby authorizes Mortgagee, without liability and at Mortgagee's sole discretion, to give notice in form and substance satisfactory to Mortgagee of the lien and security interest created by this Mortgage to a holder of a previously recorded mortgage which is a lien on the Mortgaged Premises, in order, among other things, to subordinate further advances by such mortgage holder.

38. General Indemnification. Mortgagor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties (as defined below) from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable and unforeseeable consequential damages, of whatever kind or nature (including, without limitation, attorneys' fees and expenses and other costs of defense) (the "**Losses**") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following, except to the extent any of the following are attributable to the gross negligence or willful misconduct of an Indemnified Party: (a) ownership of this Mortgage, the Mortgaged Property or any interest therein or receipt of any rents; (b) any amendment to, or restructuring of, the Obligations, and the Note, this Mortgage or any other Loan Documents; (c) any and all lawful action that may be taken by Mortgagee in connection with the enforcement of the provisions of this Mortgage or the Note or any of the other Loan Documents, whether or not suit is filed in connection with same, or in connection with Mortgagor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof; (g) any failure of the Mortgaged Property to be in compliance with any applicable laws; (h) the enforcement by any Indemnified Party of the provisions of this Section 38; (i) any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (j) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the loan evidenced by the Note and secured by this Mortgage; or (k) any misrepresentation made by Mortgagor in this Mortgage or any other Loan Document. Any amounts payable to Mortgagee by reason of the application of this Section shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Mortgagee until paid in full to Mortgagee. For purposes of this Section,



the term “*Indemnified Parties*” means Mortgagee and any directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of Mortgagee or any and all of the foregoing.

39. Alabama State Specific Provisions.

(a) Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Section 39 and the terms and conditions of this Mortgage, the terms and conditions of this Section 39 shall control and be binding.

(b) Power of Sale. Mortgagor hereby vests Mortgagee with full power and authority, upon the happening of an Event of Default, at Mortgagee’s option, to declare the entire Debt to be immediately due and payable, and at Mortgagee’s option, to take possession of the Mortgaged Property if and to the extent allowed by law, and to sell the Mortgaged Property to the highest bidder at public auction in front of the courthouse door in the county or counties, as may be required, where the Mortgaged Property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county or counties, as may be required, and, upon payment of the purchase money, Mortgagee or any person conducting the sale for Mortgagee is authorized to execute to the purchaser at said sale a deed to the Mortgaged Property so purchased. Mortgagee may bid at said sale and purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner as Mortgagee may elect. The proceeds of any foreclosure sale pursuant to this paragraph shall be applied first, to the payment of the costs of said sale, including reasonable attorney’s and auctioneer’s fees; second, to the payment of the Debt hereby secured, whether due or not, with the unpaid interest thereon to the date of sale, and any amount that may be due Mortgagee by virtue of any of the special liens or agreements herein contained; and, third, the balance, if any, to be paid over to Mortgagor, or as may otherwise be provided by law.

(c) Maximum Principal Amount Secured. Notwithstanding anything contained herein to the contrary, the maximum amount of principal indebtedness secured by this Mortgage at the time of execution hereof or which under any contingency may become secured by this Mortgage at any time hereafter is \$4,070,000.00, plus (a) taxes, charges or assessments which may be imposed by law upon the Mortgaged Property; (b) premiums on insurance policies covering the Mortgaged Property; and (c) expenses incurred in upholding the lien of this Mortgage, including, but not limited to, (i) the expenses of any litigation to prosecute or defend the rights and lien created by this Mortgage; (ii) any amount, cost or charges to which Mortgagee becomes subrogated upon payment, whether under recognized principles of law or equity or under express statutory authority and (iii) interest at the Default Rate (or regular interest rate).

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first above written.

**MORTGAGOR:**

LEE BRANCH LLC,  
an Alabama limited liability company

By: Richard K. Maloof  
Richard K. Maloof, Member

By: William C. Lloyd  
William C. Lloyd, Member



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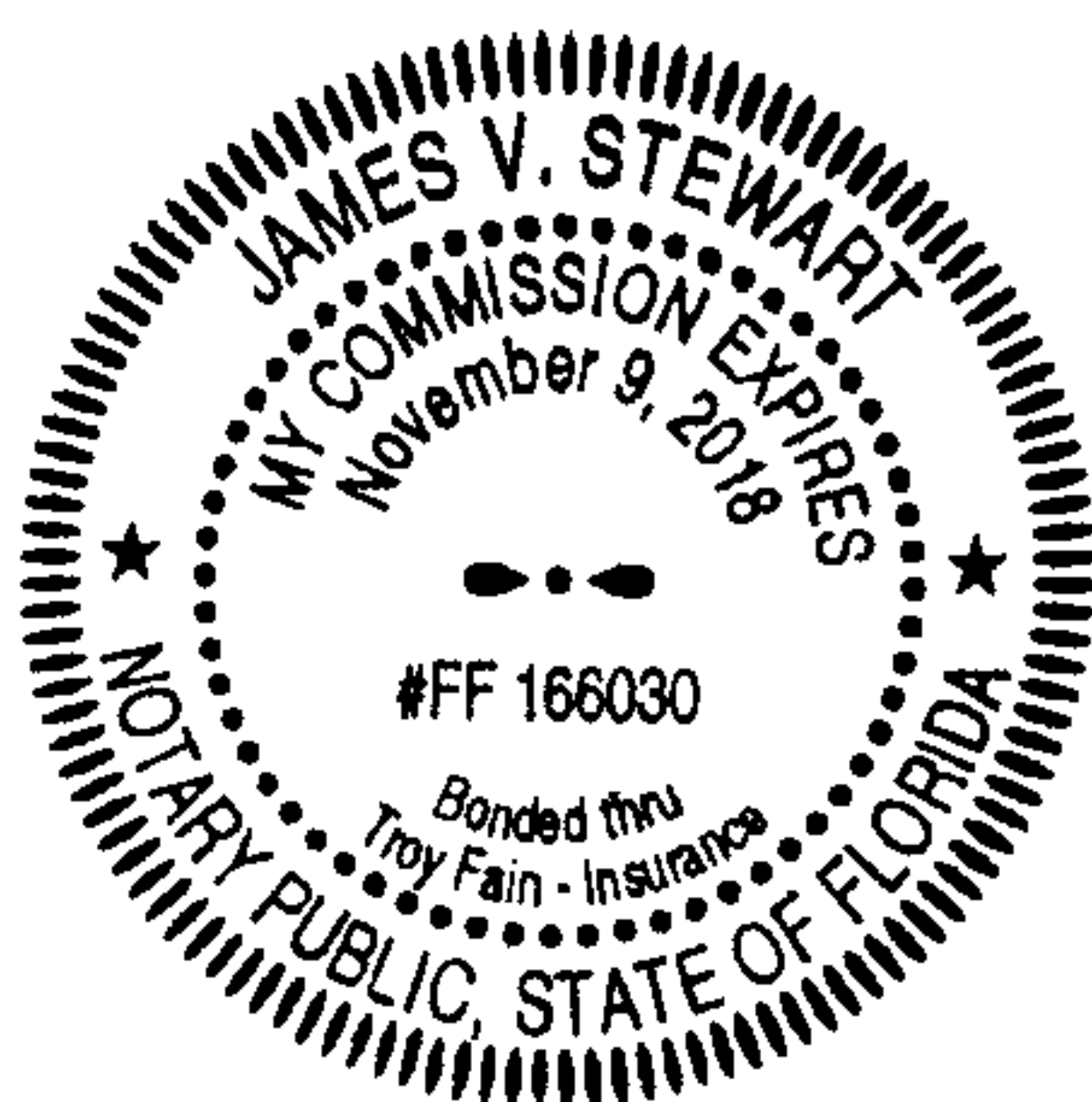


ACKNOWLEDGEMENT

STATE OF FLORIDA )  
 )SS:  
COUNTY OF PINELLAS )

I, James V. Stewart notary in and for said County in said State, hereby certify that Richard K. Maloof, as Member of Lee Branch LLC, an Alabama limited liability company, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such Member and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand this 11 day of November, 2015.

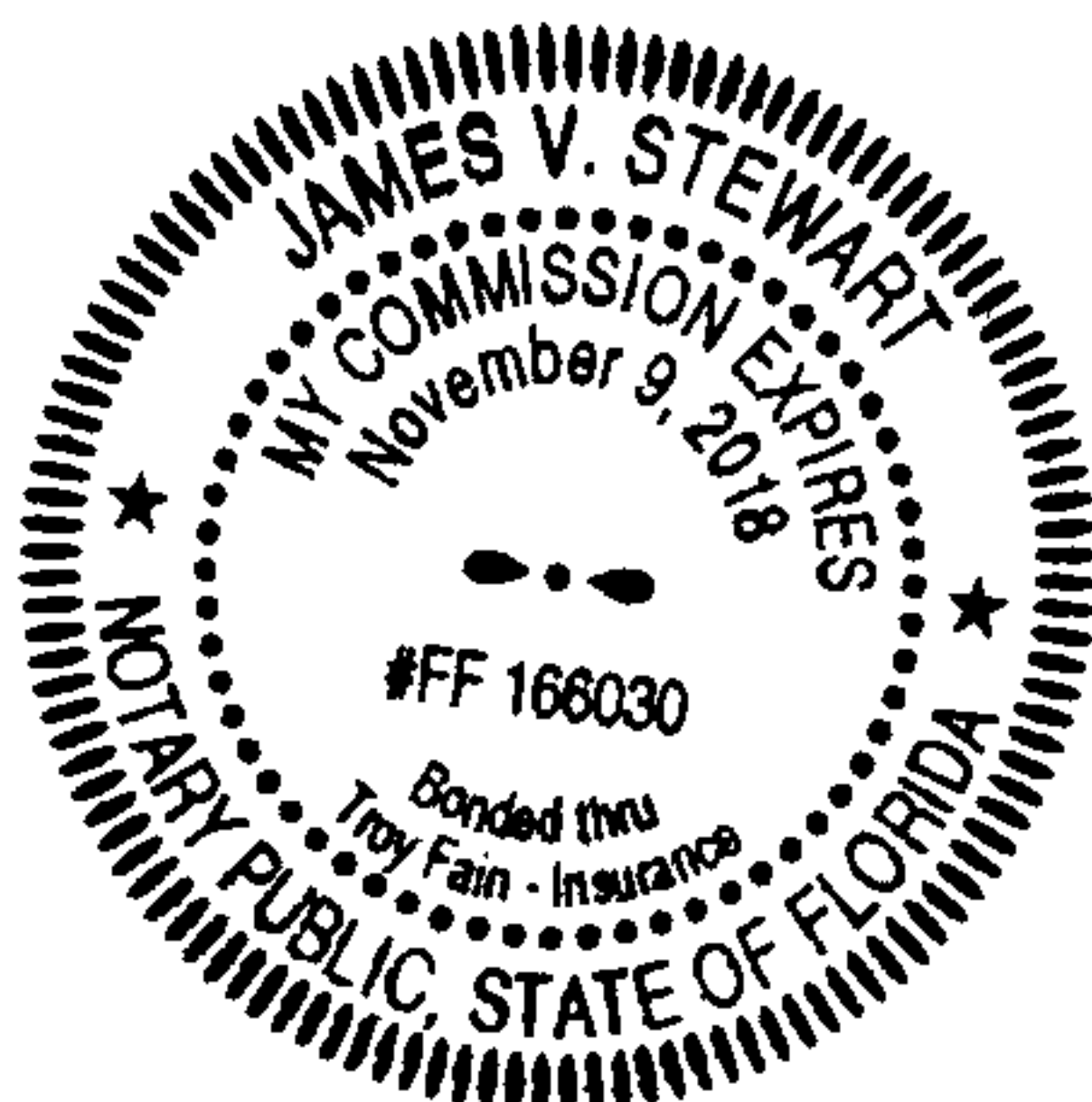


James V. Stewart  
Notary Public  
My Commission Expires: 11/9/2018

STATE OF FLORIDA )  
 )SS:  
COUNTY OF PINELLAS )

I, James V. Stewart, a notary in and for said County in said State, hereby certify that William C. Lloyd, as Member of Lee Branch LLC, an Alabama limited liability company, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such Member and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand this 11 day of November, 2015.



James V. Stewart  
Notary Public  
My Commission Expires: 11/9/2018



## **EXHIBIT A**

(Legal Description)

Lot 2A, according to the RKM's Resurvey at 280 South, as recorded in Map Book 33, Page 52, in the Probate Office of Shelby County, Alabama.

Together with easement rights contained in those certain non-exclusive easement agreements recorded in Inst. No. 20030701000412990 (as amended in Inst. No. 20030827000559970) and Inst. No. 20030701000412980.



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## **EXHIBIT B**

### **PROPERTY SUBJECT TO SECURITY INTEREST**

Any and all fixtures, appliances, machinery, equipment furnishings and furniture of any nature whatsoever, and other items of personal property and fixtures at any time now or hereafter owned by Mortgagor/Debtor and now or at any time hereafter installed in, attached to or situated in or upon the land described in Exhibit A or the buildings and improvements now erected or to be erected thereon (including, without limitation, communications, computer and security systems and the software system therefor), or used or intended to be used in connection with the real estate, or in the operation or maintenance of the buildings and improvements, plant or business situate or operated thereon (the "Property") or in connection with the conduct of Mortgagor/Debtor's business whether or not the personal property is or shall be affixed to the Property.

Such personal property and fixtures shall include, without limiting the generality of the foregoing:

All plants, furnaces, boilers, machinery, ranges, engines, stokers, pumps, heaters, tanks, compressors, dynamos, motors, electrical transformers, fittings, siding, pipe, pipe connections, conduits, ducts, partitions, communication systems, storm and screen windows, doors, refrigerators, ovens, kitchen equipment, chests, chairs, desks, bookcases, tables, curtains, hangings, pictures, carpeting, artwork, lighting fixtures and apparatus, furniture, furnishings, elevators and motors, built-in filing cabinets, shelves, water coolers, signs, tools, electrical equipment, and all equipment, appliances and apparatus of every kind and description now or hereafter affixed or attached to or contained within and used or procured for use in connection with said buildings or improvements for heating, cooling, lighting, plumbing, ventilating, sprinkling, irrigating, refrigerating or air conditioning, or for providing water, gas, electricity or other services or for general operation of the buildings and improvements, or the plant or business situate or operated thereon.

All licenses, permits, franchises, trade names, logos, service marks, service contracts, management agreements, telephone numbers, advertising materials, warranties, guarantees, tenant lists, engineering, environmental, marketing and similar studies and appraisals for the Property and all other documents and items relating to the operation of the Property, and all leases and lease guarantees with respect to any part of the Property, and all rents, issues and profits arising out of the operation, use or occupancy of the Property.

All of Mortgagor's/Debtor's interest in all utility security deposits or bonds for the Property and all security deposits, bonds or other security



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delivered to any governmental authority in connection with the use, development or operation of the Property.

All of Mortgagor's/Debtor's books and records relating to the use, operation and occupation of the buildings and the Property including, without limitation, the books and records relating to the operation of Mortgagor's/Debtor's business therein, and the plans and specifications for the construction or reconstruction thereof.

If the Property is now or hereafter used in whole or in part as a hotel, motel or similar facility or as a restaurant or other food and/or beverage service facility, such personal property shall also include all licenses for the serving of alcoholic beverages at the Property and all lodging and food and/or beverage equipment including, without limitation, beds, bureaus, divans, couches, chinaware, linens, glassware, silverware, uniforms, ornaments, kitchen utensils, bars, bar fixtures, radios, televisions, electric equipment, lamps, mirrors, and other personal property and fixtures used now or hereafter in on or about the operation, use and occupation of a lodging facility and/or food and/or beverage facility, on the Property.

Such security interest shall extend to and include as well as any and all cash and non-cash proceeds, insurance proceeds and condemnation proceeds of such fixtures and personal property and any and all subsequently acquired fixtures and personal property by way of replacement, substitution, addition or otherwise and the proceeds thereof.

Such security interest shall not extend to property owned by third party space tenants now or hereafter occupying the Property.

