

STATE OF ALABAMA     )  
SHELBY COUNTY         )

20160907000323900 09/07/2016  
09:32:27 AM MORT 1/35

Loan No. 9880

**SS HIGHWAY 280, LLC**, a Delaware limited liability company, as mortgagor

(Borrower)

to

**CITIGROUP GLOBAL MARKETS REALTY CORP.**, as mortgagee

(Lender)

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

Dated: as of September 1, 2016

Location: 4752 Highway 280, Birmingham, AL 35226  
County: Shelby

PREPARED BY AND UPON  
RECORDATION RETURN TO:

Dechert LLP  
Cira Centre  
2929 Arch Street  
Philadelphia, Pennsylvania 19104  
Attention: David W. Forti, Esq.

**THIS INSTRUMENT IS BEING FILED AS AND SHALL CONSTITUTE A MORTGAGE AND A FINANCING STATEMENT FILED AS A FIXTURE FILING IN ACCORDANCE WITH ALABAMA CODE SECTION 7-9A-502 AND SHOULD BE CROSS-INDEXED IN THE INDEX OF FIXTURE FILINGS. DEBTOR IS THE RECORD OWNER OF THE PROPERTY DESCRIBED HEREIN. THE NAMES AND ADDRESSES OF DEBTOR ("BORROWER" HEREIN) AND THE SECURED PARTY ("LENDER" HEREIN) ARE SET FORTH IN THE FIRST PARAGRAPH OF THE INSTRUMENT.**

20160907000323900 09/07/2016 09:32:27 AM MORT 2/35  
MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT  
AND FIXTURE FILING

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "*Security Instrument*") is made as of this 1st day of September, 2016, by SS HIGHWAY 280, LLC, a Delaware limited liability company, having its principal place of business at c/o Simply Self Storage, 7505 W. Sand Lake Road, Orlando, Florida 32819, as mortgagor ("*Borrower*") for the benefit of CITIGROUP GLOBAL MARKETS REALTY CORP., a New York corporation, having an address at 390 Greenwich Street, 7th Floor, New York, New York 10013, as mortgagee (together with its successors and/or assigns, "*Lender*").

W I T N E S S E T H:

A. This Security Instrument is given to secure a loan (the "*Loan*") in the aggregate principal sum of FIVE HUNDRED FORTY MILLION AND NO/100 DOLLARS (\$540,000,000.00) or so much thereof as may be advanced pursuant to that certain Loan Agreement dated as of the date hereof among Borrower, the other borrowers identified on Schedule 1 attached hereto (collectively with Borrower, the "*Mortgage Loan Borrowers*") and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "*Loan Agreement*"), and evidenced by the Note. Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

B. Borrower desires to secure the payment of the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon and all other sums (including the Prepayment Fee, if any) due to Lender in respect of the Loan and the Loan Documents (the "*Debt*") and the performance of all of its obligations under the Note, Loan Agreement and the other Loan Documents.

C. This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment and performance by the Mortgage Loan Borrowers of their obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement, the Note, and the other Loan Documents, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument.

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Security Instrument:

ARTICLE I.

GRANTS OF SECURITY

**Section 1.01 Property Mortgaged.** Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Lender and its successors and assigns, **WITH RIGHT OF ENTRY AND POSSESSION** and **POWER OF SALE**, all right,

title, interest and estate of Borrower now owned, or hereafter acquired, in and to the following (collectively, the "**Property**");

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

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

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

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

(e) Equipment. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Borrower, which is used at or in connection with the Improvements or the Property or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Borrower and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, except to the extent that Borrower shall have any right or interest therein, Equipment shall not include any Property owned or leased by any tenants or any other Person other than Borrower;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Borrower which is so related to the Property and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Property, including, but not limited



to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Borrower's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**"). Notwithstanding the foregoing, "Fixtures" shall not include any property which Tenants are entitled to remove pursuant to Leases except to the extent that Borrower shall have any right or interest therein;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code), other than Fixtures, which are now or hereafter owned by Borrower and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (as amended from time to time, the "**Uniform Commercial Code**"), superior in lien to the lien of this Security Instrument, and all proceeds and products of any of the above;

(h) Leases and Rents. All leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements, and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "**Bankruptcy Code**"); but specifically excluding (x) any sublease to which Borrower is not a party (provided that to the extent that Borrower has any right, title or interest in any sublease, the Lien of this Security Instrument shall encumber Borrower's interest therein), (y) any easements or licenses (other than easements or licenses that are substantively space leases for use and occupancy of the office space) and (z) the Ground Lease (collectively, the "**Leases**"), and all right, title and interest of Borrower, its successors and assigns, therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the Tenants of their obligations thereunder and Borrower's rights to all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses), rent equivalents, moneys payable as damages or in

lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts (but in no event any Borrower accounts other than the Accounts, or cash or proceeds thereof, and not capital contributions to Borrower), cash, issues, profits, charges for services rendered and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources arising from or attributable to the Property (or any portion thereof), including, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of use and/or occupancy of property and/or rendering of services by Borrower or Manager, if any, and, subject to the terms of the Loan Documents, proceeds, if any, from business interruption or other loss of income insurance in connection with the Land and/or Improvements, whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (collectively, the "**Rents**"), and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment and performance of the Obligations, including the payment of the Debt;

(i) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property by reason of any taking or condemnation, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Property, in each case, subject to the provisions of the Loan Agreement and the Ground Lease regarding the application of such proceeds;

(j) Insurance Proceeds. All proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments or settlements made in lieu thereof, for damage to the Property, in each case, subject to the provisions of the Loan Agreement and the Ground Lease regarding the application of such proceeds;

(k) Tax Certiorari. All refunds, rebates or credits in connection with any reduction in Taxes or Other Charges charged against the Property as a result of tax certiorari proceedings or any other applications or proceedings for reduction;

(l) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property, subject to the terms of the Loan Agreement;

(m) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right,



upon the occurrence and during the continuance of an Event of Default, to receive and collect any sums payable to Borrower thereunder;

(n) Trademarks. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(o) Accounts. All reserves, escrows and deposit accounts maintained by Borrower with respect to the Property, including, without limitation, all accounts established or maintained pursuant to the Loan Agreement, the Cash Management Agreement, the Clearing Account Agreement or any other Loan Document, together with all deposits or wire transfers made to such accounts, and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time, and all proceeds, products, distributions, dividends and/or substitutions thereon and thereof;

(p) Uniform Commercial Code Property. All documents, instruments, chattel paper and intangibles, as the foregoing terms are defined in the Uniform Commercial Code, and general intangibles relating to the Property;

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

(r) Proceeds. Subject to the terms of the Loan Agreement, all proceeds of any of the foregoing, whether in cash or in liquidation or other claims, or otherwise; and

(s) Other Rights. Any and all other rights of Borrower in and to the items set forth in Subsections (a) through (r) above.

AND, without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Borrower expressly grants to Lender, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Property (the Land, the Improvements and the Fixtures collectively referred to as the "**Real Property**") appropriated to the use thereof and, whether affixed or annexed to the Land or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and mortgaged hereby.

**Section 1.02 Assignment of Rents**. Borrower hereby absolutely and unconditionally assigns to Lender all of Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Cash Management Agreement and Section 7.01(h) of this Security Instrument, Lender grants to Borrower a license (revocable in accordance with the terms hereof, provided that any revoked license shall be automatically reinstated when no Event of Default exists) to collect, receive, use and enjoy the Rents.

**Section 1.03 Security Agreement**. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The

Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations, a security interest in the Fixtures, the Equipment, the Personal Property and the other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "*Collateral*"). Borrower authorizes Lender to file or record financing statements with respect to the Collateral, amendments thereto and continuation statements in such form and in such offices as are necessary to perfect the security interests of the Lender under this Security Instrument. Without in any way increasing the collateral granted hereunder or under the other Loan Documents, Borrower authorizes Lender to use collateral descriptions such as "all personal property" or "all assets", in each case "whether now owned or hereafter acquired", whether or not specifically describing good that are or are to become fixtures, or to use words of similar import in any such financing statements. If an Event of Default shall occur and be continuing, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem reasonably necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Borrower shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Borrower shall pay to Lender promptly upon written demand any and all expenses, including reasonable attorneys' fees and costs, actually incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Borrower in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Borrower. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper. The principal place of business of Borrower (Debtor) is as set forth on page one hereof and the address of Lender (Secured Party) is as set forth on page one hereof.

**Section 1.04 Fixture Filing.** Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Security Instrument, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement naming Borrower as the Debtor and Lender as the Secured Party filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.



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

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay and perform the Obligations (including the payment of the Debt) at the time and in the manner provided in this Security Instrument, the Note, the Loan Agreement and the other Loan Documents, and shall well and truly abide by and comply with each and every Other Obligation, or if the Loan shall be defeased in full in accordance with the Loan Agreement, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that Borrower's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof shall survive any such payment or release.

## ARTICLE II.

### DEBT AND OBLIGATIONS SECURED

**Section 2.01 Obligations.** This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Obligations, including, but not limited to, the Debt.

**Section 2.02 Other Obligations.** This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (collectively, the "*Other Obligations*"):

- (a) the performance of all other obligations of Borrower contained herein;
- (b) the performance of each obligation of Borrower contained in the Loan Agreement and in each other Loan Document; and
- (c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

**Section 2.03 Debt and Other Obligations.** Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "*Obligations.*"

**Section 2.04 Loan Repayment and Defeasance.** This Security Instrument will be satisfied and discharged of record by Lender prior to the Maturity Date only in accordance with the terms and provisions set forth in the Loan Agreement.

**Section 2.05 Other Mortgages; No Election of Remedies.**

- (a) The Debt is now or may hereafter be secured by one or more other mortgages, deeds of trust and other security agreements (collectively, as the same may be amended and in effect from time to time, are herein collectively called the "*Other Mortgages*"),



which cover or will hereafter cover other properties that are or may be located in various states (the "***Other Collateral***"). The Other Mortgages will secure the Debt and the performance of the other covenants and agreements of the Mortgage Loan Borrowers set forth in the Loan Documents. During the continuance of an Event of Default, Lender (or any trustee party to the Other Mortgages) may proceed under this Security Instrument and/or any or all of the Other Mortgages against either the Property and/or any or all of the Other Collateral in one or more parcels and in such manner and order as Lender (or any trustee party to the Other Mortgages) shall elect. Borrower hereby irrevocably waives and releases, to the extent permitted by law, and whether now or hereafter in force, any right to have the Property and/or the Other Collateral marshaled upon any foreclosure of this Security Instrument or any Other Mortgage.

(b) Without limiting the generality of the foregoing, and without limitation as to any other right or remedy provided to Lender in this Security Instrument or the other Loan Documents, in the case of an Event of Default (i) Lender shall have the right to pursue all of its rights and remedies under this Security Instrument and the other Loan Documents, at law and/or in equity, in one proceeding, or separately and independently in separate proceedings from time to time, as Lender, in its sole and absolute discretion, shall determine from time to time, (ii) Lender shall not be required to marshal assets or sell the Property and/or any Other Collateral in any particular order of alienation (and may sell the same simultaneously and together or separately), or be subject to any "one action" or "election of remedies" law or rule with respect to the Property and/or any Other Collateral, (iii) the exercise by Lender of any remedies against any one item of Property and/or any Other Collateral will not impede Lender from subsequently or simultaneously exercising remedies against any other item of Property and/or Other Collateral, (iv) all liens and other rights, remedies or privileges provided to Lender herein shall remain in full force and effect until Lender has exhausted all of its remedies against the Property and all Property has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Debt, and (v) Lender may resort for the payment of the Debt to any security held by Lender in such order and manner as Lender, in its discretion, may elect and Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument.

(c) Without notice to or consent of Borrower and without impairment of the lien and rights created by this Security Instrument, Lender may, at any time (in its sole and absolute discretion, but Lender shall have no obligation to), execute and deliver to Borrower a written instrument releasing all or a portion of the lien of this Security Instrument as security for any or all of the obligations of Borrower now existing or hereafter arising under or in respect of the Note, the Loan Agreement and each of the other Loan Documents, whereupon following the execution and delivery by Lender to Borrower of any such written instrument of release, this Security Instrument shall no longer secure such obligations of Borrower so released.

### ARTICLE III.

#### BORROWER COVENANTS

Borrower covenants and agrees that throughout the term of the Loan:

**Section 3.01 Payment of Debt.** Borrower will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

**Section 3.02 Incorporation by Reference.** All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note, and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein. Without limiting the generality of the foregoing, Borrower (i) agrees to insure, repair, maintain and restore damage to the Property, pay Taxes and Other Charges, and comply with Legal Requirements, in each case, in accordance with the Loan Agreement, and (ii) agrees that the Insurance Proceeds and Awards shall be settled, held, applied and/or disbursed in accordance with the Loan Agreement.

**Section 3.03 Performance of Other Agreements.** Borrower shall observe and perform each and every term, covenant and provision required to be observed or performed by Borrower pursuant to the Loan Agreement, any other Loan Document and any other material agreement or recorded instrument affecting or pertaining to the Property, and any amendments, modifications or changes thereto to the extent that, except as otherwise provided in the Loan Agreement, failure to do so would have a Material Adverse Effect.

## ARTICLE IV.

### OBLIGATIONS AND RELIANCES

**Section 4.01 Relationship of Borrower and Lender.** The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument or the other Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

**Section 4.02 No Reliance on Lender.** The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

**Section 4.03 No Lender Obligations.**

(a) Notwithstanding the provisions of Subsections 1.01(h) and (m) or Section 1.02, Lender is not undertaking the performance of (i) any obligations under the Leases, or (ii) any obligations with respect to any other agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses or other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the



sufficiency, legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

**Section 4.04 Reliance.** Borrower recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article 3 of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof; that such warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Article 3 of the Loan Agreement.

## ARTICLE V.

### FURTHER ASSURANCES

**Section 5.01 Recording of Security Instrument, Etc.** Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, upon Lender's request, will cause this Security Instrument and any of the other Loan Documents creating a Lien or security interest or evidencing the Lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the Lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of any of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of any of the foregoing documents, except as otherwise provided in the Loan Agreement or where prohibited by law so to do.

**Section 5.02 Further Acts, Etc.** Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender pursuant to the terms of this Security Instrument or any other Loan Document, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, provided the same do not materially increase the obligations of Borrower

beyond those intended to be imposed under this Security Instrument (other than to a de minimis extent, it being understood that corrections of scrivener's errors shall be deemed to not materially increase the obligations of Borrower beyond those intended to be imposed under this Security Instrument) or materially decrease the rights of Borrower below those intended to be conferred under this Security Instrument (other than to a de minimis extent, it being understood that corrections of scrivener's errors shall be deemed to not materially decrease the rights of Borrower below those intended to be conferred under this Security Instrument). Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, following ten (10) Business Days' prior written notice from Lender, hereby authorizes Lender to file or record one or more financing statements to evidence more effectively the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including, without limitation, such rights and remedies available to Lender pursuant to this Section 5.02.

### **Section 5.03 Changes in Tax, Debt, Credit and Documentary Stamp Laws.**

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will, upon demand from Lender, pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of such tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Lender shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable, without the requirement of the payment of any prepayment fee or penalty.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable, without the requirement of the payment of any prepayment fee or penalty.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security Instrument, or any of the other Loan Documents or shall impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

## **ARTICLE VI.**

### **DUE ON SALE/ENCUMBRANCE**

**Section 6.01 Lender Reliance.** Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its general partners, members, principals and (if



Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for the payment and performance of the Obligations, including the repayment of the Debt. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the payment and/or performance of the Obligations, including the repayment of the Debt, Lender can recover the Debt by a sale of the Property.

**Section 6.02 No Transfer.** Borrower shall not permit or suffer any Transfer to occur except in accordance with the terms of the Loan Agreement.

## ARTICLE VII.

### RIGHTS AND REMEDIES UPON DEFAULT

**Section 7.01 Remedies.** Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, to the extent permitted by applicable law, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner, Lender being hereby expressly granted the power of to foreclose this Security Instrument and sell the Property at public auction and convey the same to the purchaser in fee simple;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Obligations not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof, all as may be required or permitted by law; and, without limiting the foregoing:
  - (i) in connection with any sale or sales hereunder, Lender shall be entitled to elect to treat any of the Property which consists of (x) a right in action, or (y) property that can be severed from the Real Property covered hereby, or (z) any improvements (without causing structural damage thereto), as if the same were personal property, and dispose of the

same in accordance with applicable law, separate and apart from the sale of the Real Property. Where the Property consists of Real Property, Personal Property, Equipment or Fixtures, whether or not such Personal Property or Equipment is located on or within the Real Property, Lender shall be entitled to elect to exercise its rights and remedies against any or all of the Real Property, Personal Property, Equipment and Fixtures in such order and manner as is now or hereafter permitted by applicable law;

(ii) Lender shall be entitled to elect to proceed against any or all of the Real Property, Personal Property, Equipment and Fixtures in any manner permitted under applicable law; and if Lender so elects pursuant to applicable law, the power of sale herein granted shall be exercisable with respect to all or any of the Real Property, Personal Property, Equipment and Fixtures covered hereby, as designated by Lender and Lender is hereby authorized and empowered to conduct any such sale of any Real Property, Personal Property, Equipment and Fixtures in accordance with the procedures applicable to Real Property;

(iii) should Lender elect to sell any portion of the Property which is Real Property or which is Personal Property, Equipment or Fixtures that the Lender has elected under applicable law to sell together with Real Property in accordance with the laws governing a sale of the Real Property, Lender shall give such notice of the occurrence of an Event of Default, if any, and its election to sell such Property, each as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, subject to the terms hereof and of the other Loan Documents, and without the necessity of any demand on Borrower, Lender at the time and place specified in the notice of sale, shall sell such Real Property or part thereof at public auction to the highest bidder for cash in lawful money of the United States. Lender may from time to time postpone any sale hereunder by public announcement thereof at the time and place noticed for any such sale; and

(iv) if the Property consists of several lots, parcels or items of property, Lender shall, subject to applicable law, (A) designate the order in which such lots, parcels or items shall be offered for sale or sold, or (B) elect to sell such lots, parcels or items through a single sale, or through two or more successive sales, or in any other manner Lender designates. Any Person, including Borrower or Lender, may purchase at any sale hereunder. Should Lender desire that more than one sale or other disposition of the Property be conducted, Lender shall, subject to applicable law, cause such sales or dispositions to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Lender may designate, and no such sale shall terminate or otherwise affect the Lien of this Security Instrument on any part of the Property not sold until all the Obligations have been satisfied in full. In the event Lender elects to dispose of the Property through more than one sale, except as otherwise provided by applicable law, Borrower agrees to pay the costs and expenses of each such sale and of any judicial proceedings wherein such sale may be made;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, in the Loan Agreement or in the other Loan Documents;

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



(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any guarantor or indemnitor with respect to the Loan or any Person otherwise liable for the payment of the Debt or any part thereof;

(h) the license granted to Borrower under Section 1.02 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts of Borrower to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases (except as set forth in any subordination, non-disturbance and attornment agreement executed by any tenant and Lender), obtain and evict tenants (except as set forth in any subordination, non-disturbance and attornment agreement executed by any tenant and Lender) and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment and performance of the Obligations (including, without limitation, the payment of the Debt), in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees and costs) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, Insurance Premiums and other expenses payable by Borrower in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment and/or the Personal Property, or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Borrower, at its sole cost and expense, to assemble the Fixtures, the Equipment and/or the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Fixtures, the Equipment and/or the Personal Property sent to Borrower in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) subject to any limitation with respect thereto expressly set forth herein or in any of the other Loan Documents, apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document to the payment of the following items in any order in its sole discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) Interest on the unpaid principal balance of the Note;
- (iv) Amortization of the unpaid principal balance of the Note; and/or

(v) All other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including, without limitation, the Prepayment Fee, if applicable, and advances made by Lender pursuant to the terms of this Security Instrument;

(k) pursue such other remedies as Lender may have under applicable law; and/or

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

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of the Property, this Security Instrument shall continue as a Lien and security interest on the remaining portion of the Property unimpaired and without loss of priority. Notwithstanding the provisions of this Section to the contrary, upon any Event of Default described in clauses (vii), (viii) or (ix) of Section 9.1 of the Loan Agreement, the Obligations of Borrower hereunder and under the other Loan Documents shall immediately and automatically become due and payable in full, without notice or demand, and Borrower hereby expressly waives any such notice or demand, anything contained herein or in any other Loan Document to the contrary notwithstanding.

**Section 7.02 Application of Proceeds.** Subject to the provisions of the Loan Agreement, the purchase money proceeds and avails of any disposition of the Property or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents may be applied during the continuance of an Event of Default by Lender to the payment of the Obligations in such priority and proportions as Lender in its discretion shall deem proper, to the extent consistent with law.

**Section 7.03 Right to Cure Defaults.** Upon the occurrence and during the continuance of any Event of Default, if Borrower fails to cure such Event of Default for a period of five (5) Business Days after Borrower's receipt of written notice thereof from Lender, Lender may, but without any obligation to do so and without releasing Borrower from any obligation hereunder, perform the obligations giving rise to such Event of Default in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon



the Property for such purposes, subject to the rights of Tenants, or appear in, defend or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees and expenses to the extent permitted by law), with interest thereon at the Default Rate for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender, shall constitute a portion of the Debt, shall be secured by this Security Instrument and the other Loan Documents and shall be due and payable to Lender upon demand. Notwithstanding the foregoing, Lender shall have no obligation to send notice to Borrower of any such failure.

#### **Section 7.04 Other Rights, Etc.**

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

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

(c) Upon the occurrence and during the continuance of an Event of Default, Lender may resort for the payment and performance of the Obligations (including, but not limited to, the payment of the Debt) to any other security held by Lender in accordance with the provisions of the Loan Documents in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce the Other Obligations or any covenant hereof, without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

**Section 7.05 Right to Release Any Portion of the Property.** Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the Lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Debt shall have been reduced by the actual monetary consideration, if any, received by

Lender for such release, and Lender may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a Lien and security interest in the remaining portion of the Property.

**Section 7.06 Intentionally Omitted.**

**Section 7.07 Right of Entry.** Lender and its agents shall have the right to enter and inspect the Property on the terms set forth in Section 4.8 of the Loan Agreement.

**ARTICLE VIII.**

**INDEMNIFICATION**

**Section 8.01 Mortgage and/or Intangible Tax.** Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless Lender and any Person claiming by or through Lender (collectively with Lender, the “*Indemnified Parties*”) from and against any and all losses imposed upon or incurred by or asserted against any Indemnified Party and directly or indirectly arising out of or in any way relating to any mortgage, recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of this Security Instrument or any of the Loan Documents (but excluding any income, franchise or other similar taxes).

**Section 8.02 Duty to Defend; Attorneys’ Fees and Other Fees and Expenses.** Upon written request by any Indemnified Party, Borrower shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Borrower and any Indemnified Party and Borrower and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or in addition to those available to Borrower, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party. Upon demand, Borrower shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of the reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

**ARTICLE IX.**

**WAIVERS**

**Section 9.01 Waiver of Counterclaim.** To the extent permitted by applicable law, Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents or the Obligations; provided that nothing contained herein shall be deemed a



waiver of Borrower's right to assert a good faith defense that the event or circumstance allegedly constituting a breach of this Security Instrument by Borrower or an Event of Default has not occurred.

**Section 9.02 Marshalling and Other Matters.** To the extent permitted by applicable law, Borrower hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, to the extent permitted by applicable law, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument.

**Section 9.03 Waiver of Notice.** To the extent permitted by applicable law, Borrower shall not be entitled to any notices of any nature whatsoever from Lender, except with respect to matters for which this Security Instrument or the other Loan Documents specifically and expressly provide for the giving of notice by Lender to Borrower, and except with respect to matters for which Lender is required by applicable law to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which the Loan Documents do not specifically and expressly provide for, and applicable law does not otherwise require, the giving of notice by Lender to Borrower.

**Section 9.04 Waiver of Statute of Limitations.** To the extent permitted by applicable law, Borrower hereby expressly waives and releases its right to plead any statute of limitations as a defense to the payment and performance of the Obligations (including, without limitation, the payment of the Debt).

**Section 9.05 Waiver of Jury Trial. EACH OF BORROWER AND LENDER HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THE NOTE, THIS SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF LENDER AND BORROWER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER AND LENDER, RESPECTIVELY.**

**Section 9.06 Survival.** The indemnifications made pursuant to Article 8 hereof shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by (a) any satisfaction, release or other termination of this Security Instrument or any other Loan Document, (b) any assignment or other transfer of all or any portion of this Security Instrument or any other Loan Document or Lender's interest in the Property (but, in such case, such

indemnifications shall benefit both the Indemnified Parties and any such assignee or transferee), (c) any exercise of Lender's rights and remedies pursuant hereto, including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Borrower or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), (d) any amendment to this Security Instrument, the Loan Agreement, the Note or any other Loan Document, and/or (e) any act or omission that might otherwise be construed as a release or discharge of Borrower from the Obligations or any portion thereof.

#### **ARTICLE X.**

#### **EXCULPATION**

The provisions of Section 10.20 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

#### **ARTICLE XI.**

#### **NOTICES**

All notices or other written communications hereunder shall be delivered in accordance with Section 10.6 of the Loan Agreement.



**APPLICABLE LAW**

**Section 12.01 Governing Law; Jurisdiction; Service of Process.** WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THIS SECURITY INSTRUMENT, THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS PARAGRAPH AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES SHALL GOVERN ALL MATTERS RELATING TO THIS SECURITY INSTRUMENT AND THE OTHER LOAN DOCUMENTS AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, AS SET FORTH IN SECTION 10.3 OF THE LOAN AGREEMENT.

**Section 12.02 Usury Laws.** Notwithstanding anything to the contrary, (a) all agreements and communications between Borrower and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed to constitute interest, the interest contracted for, charged or received by Lender shall never exceed the Maximum Legal Rate, (b) in calculating whether any interest exceeds the Maximum Legal Rate, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Borrower to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the Maximum Legal Rate, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Borrower to Lender, or if there is no such indebtedness, shall immediately be returned to Borrower.

**Section 12.03 Provisions Subject to Applicable Law.** All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

**ARTICLE XIII.**

**DEFINITIONS**

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in the singular or plural form and the word "Borrower" shall mean "Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "Property" shall include any portion of the Property and any interest of Borrower therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels, incurred or paid by Lender in protecting its interest in the Property, the Leases and/or the Rents and/or in enforcing its rights hereunder. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

#### ARTICLE XIV.

#### MISCELLANEOUS PROVISIONS

**Section 14.01 No Oral Change.** This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party(ies) against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

**Section 14.02 Successors and Assigns.** This Security Instrument shall be binding upon, and shall inure to the benefit of, Borrower and Lender and their respective successors and permitted assigns, as set forth in the Loan Agreement.

**Section 14.03 Inapplicable Provisions.** If any provision of this Security Instrument is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Security Instrument, such provision shall be fully severable and this Security Instrument shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Security Instrument, and the remaining provisions of this Security Instrument shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Security Instrument, unless such continued effectiveness of this Security Instrument, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

**Section 14.04 Headings, Etc.** The headings and captions of the various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

**Section 14.05 Subrogation.** If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles and interests, if any, are not waived, but



rather are continued in full force and effect in favor of Lender and are merged with the Lien and security interest created herein as cumulative security for the payment, performance and discharge of the Obligations (including, but not limited to, the payment of the Debt).

**Section 14.06 Entire Agreement.** The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement between Borrower and Lender with respect to the transactions arising in connection with the Obligations and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto. Borrower hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, there are not, and were not, and no Persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Security Instrument and the other Loan Documents.

**Section 14.07 Limitation on Lender's Responsibility.** No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the Tenants or any other Person (other than Lender), or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any Tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession."

**Section 14.08 Recitals.** The recitals hereof are a part hereof, form a basis for this Security Instrument and shall be considered prima facie evidence of the facts and documents referred to therein.

## ARTICLE XV.

### STATE-SPECIFIC PROVISIONS

**Section 15.01 Principles of Construction.** In the event of any inconsistencies between the terms and conditions of this Article 15 and the other terms and conditions of this Security Instrument, the terms and conditions of this Article 15 shall control and be binding.

**Section 15.02 Power of Sale.** In addition to the rights and remedies set forth in Article 7 hereof, if an Event of Default exists, this Security Instrument shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages, and Lender shall be authorized, at its option, whether or not possession of the Property is taken, to sell the Property (or such part or parts thereof as Lender may from time to time elect to sell) under the power of sale which is hereby given to Lender, at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the Land to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the Property to be sold, by publication in some newspaper published in the county or counties in which the Land to be sold is located. If there is Land to be sold in more than one county,

publication shall be made in all counties where the Land to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held sometime during the applicable legal hours of sale on the day designated for the exercise of the power of sale hereunder. Lender may bid at any sale held under this Security Instrument in the form of cash, cash equivalents and/or cancellation of all or any part of the Obligations, or any combination thereof, and may purchase the Property, or any part thereof, if the highest bidder therefor. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. At any sale all or any part of the Property, real, personal or mixed, may be offered for sale in parcels or en masse, without first offering it for sale in separate parcels, for one total price, and the proceeds of any such sale en masse shall be accounted for in one account without distinction between the items included therein and without assigning to them any proportion of such proceeds, Borrower hereby waiving the right to direct the order or manner in which any Property will be sold and the application of any doctrine of marshalling or like proceeding. In case Lender, in the exercise of the power of sale herein given, elects to sell the Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Property not previously sold shall have been sold or all the Obligations shall have been paid in full and this Security Instrument shall have been terminated as provided herein.

**Section 15.03 Foreclosure Deeds.** To the extent permitted by applicable law, Borrower hereby authorizes and empowers Lender, or any person conducting the sale for Lender, at any foreclosure sale had hereunder, for and in the name of Borrower, to execute and deliver to the purchaser or purchasers of any of the Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

**Section 15.04 Multiple Sales.** If an Event of Default exists, Lender shall have the option to proceed with foreclosure, either through the courts or by power of sale as provided for in this Security Instrument, but without declaring the whole Obligations due. Any such sale may be made subject to the unmatured part of the Obligations, and such sale, if so made, shall not affect the unmatured part of the Obligations, but as to such unmatured part of the Obligations this Security Instrument shall remain in full force and effect as though no sale had been made under this Article 15. Several sales may be made hereunder without exhausting the right of sale for any remaining part of the Obligations, whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Obligations without exhausting the power of foreclosure and the power to sell the Property for any other part of the Obligations, whether matured at the time or subsequently maturing.

**Section 15.05 Prerequisites of Sales.** In case of any sale of the Property as authorized by Section 15.02, all prerequisites to such sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Obligations or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as rebuttably presumptive evidence that the facts so stated or recited are true.

**Section 15.06 Additional Fixture Filing Language.** This Security Instrument shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included in



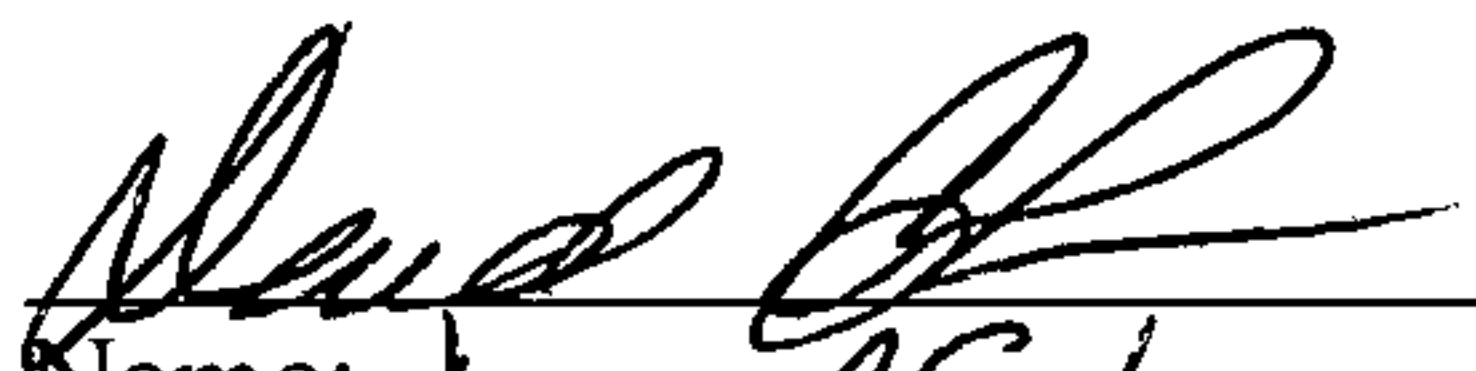
the Property and is to be filed and recorded in, among other places, the real estate records of the county where the Property is located. For this purpose the following information is included: The Property is described by item or type in Section 1.01. Borrower is the debtor and Lender is the secured party. The names of the debtor (Borrower) and the secured party (Lender) are given in the first paragraph of this Security Instrument. The mailing addresses of Lender set out in the first paragraph hereof are addresses of the secured party from which information concerning the security interest may be obtained. The mailing address of the Borrower set out in the first paragraph hereof is a mailing address for the debtor. A statement indicating the types, or describing the items, of collateral is set forth in Section 1.01 and in this Section 15.06. The real estate to which the goods are or are to be affixed is described in Exhibit A.

[NO FURTHER TEXT ON THIS PAGE]

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

**BORROWER:**

**SS HIGHWAY 280, LLC,**  
a Delaware limited liability company

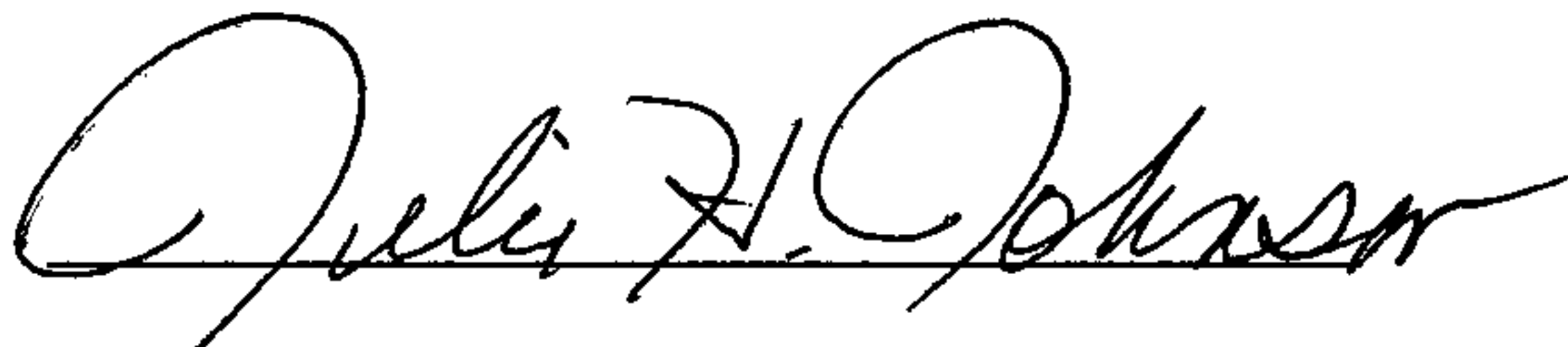
By:   
Name: David Cohen  
Title: VP

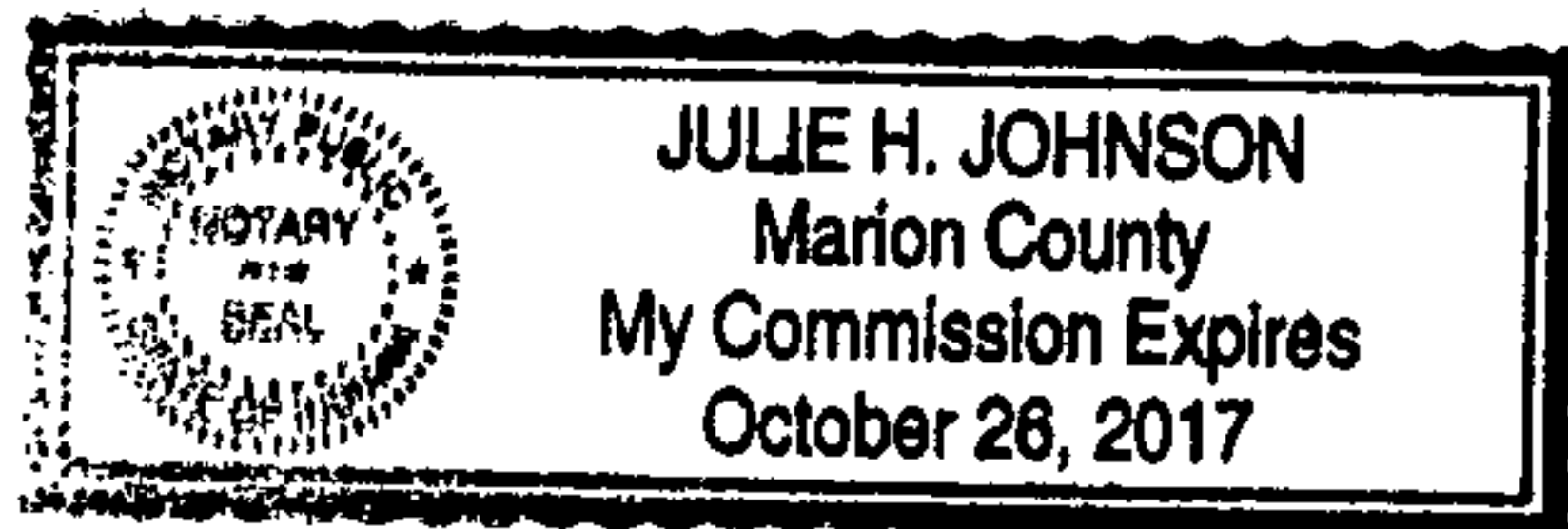


ACKNOWLEDGMENT (BORROWER)

STATE OF INDIANA                     )  
  )  
COUNTY OF MARION                     )     ss.:

On the 25 day of August in the year 2016 before me, the undersigned, a Notary Public in and for said State, personally appeared David Cohen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument. Witness my hand and official seal.

  
Notary Public



MORTGAGE LOAN BORROWERS

(Each entity is a Delaware limited liability company unless otherwise noted.)

1. CHELMSFORD, LLC
2. Madison Brookhaven, LLC
3. Madison Eagle Drive, LLC
4. Simply Storage Caguas, LLC
5. SS 22195 Timberlake Road, LLC
6. SS 8117 Timberlake Road, LLC
7. SS BAYPORT, LLC
8. SS Beeline, LLC
9. SS Billy Williamson Drive, LLC
10. SS BLOOMFIELD, LLC
11. SS Blue Ash, LLC
12. SS BRIGHTON MA, LLC
13. SS Brookside, LLC
14. SS Catano, LLC
15. SS Chevoit, LLC
16. SS CLEVELAND HEIGHTS, LLC
17. SS Cliffwood, LLC
18. SS DEERFIELD, LLC
19. SS DETROIT, LLC
20. SS Downtown Tulsa, LLC
21. SS EASTPOINTE II, LLC
22. SS FERNDALE, LLC
23. SS Fields Ertel, LLC
24. SS Forest Park, LLC
25. SS Fort Walton Beal Parkway, LLC
26. SS Fort Walton Harrelson Drive, LLC
27. SS GLENVIEW, LLC
28. SS Greenville, LLC
29. SS Guaynabo, LLC
30. SS Hall Road, LLC
31. SS Hargrove Drive, LLC
32. SS HIAWATHA II, LLC
33. SS Highland Park, LLC
34. SS Highway 150, LLC
35. SS Highway 280, LLC
36. SS HINGHAM, LLC
37. SS Hoffman Estates, LLC
38. SS Huber Heights, LLC
39. SS Ivy Hill, LP (*a Pennsylvania limited partnership*)
40. SS Kettering, LLC
41. SS Kingsland, LLC
42. SS Lakeside Drive, LLC



- 43. SS LINCOLN PARK, LLC
- 44. SS MAMNOH, LLC
- 45. SS MICHIGAN, LLC
- 46. SS Midtown Tulsa, LLC
- 47. SS MILLVILLE, LLC
- 48. SS MINNESOTA II, LLC
- 49. SS MITX, LLC
- 50. SS MNMI, LLC
- 51. SS MNRI, LLC
- 52. SS Moellering, LLC
- 53. SS NORTH BEND, LLC
- 54. SS North Fort Myers, LLC
- 55. SS Norwood, LLC
- 56. SS Palm City, LLC
- 57. SS Peake Road, LLC
- 58. SS Ponce, LLC
- 59. SS READING, LLC
- 60. SS Riverside Drive, LLC
- 61. SS San Juan, LLC
- 62. SS Sheridan, LLC
- 63. SS South Amherst, LLC
- 64. SS SOUTH EUCLID, LLC
- 65. SS Storage Court, LLC
- 66. SS Titusville Access, LLC
- 67. SS TOA BAJA, LLC
- 68. SS Trinity Church, LLC
- 69. SS Ward and Citation, LLC
- 70. SS West Point, LLC
- 71. SS Whitesville Road, LLC
- 72. SS WILLIAMSTOWN, LLC
- 73. SS Yale, LLC

LEGAL DESCRIPTION

Parcel I-FEE

A part of Lot 1, Dewberry's Subdivision as recorded in Map Book 9, Page 11 in the Probate Office of Shelby County, Alabama, being more particularly described as follows:

Begin at the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, said point being on the West line of said Lot 1, Dewberry's Subdivision; thence from the West line of said 1/4 - 1/4 section turn an angle of 29 degrees 08 minutes to the right in a Northeasterly direction and run 695.72 feet to a point; thence 95 degrees 21 minutes to the right in a Southeasterly direction a distance of 108.82 feet to a point; thence 51 degrees 00 minutes 30 seconds to the left in a Northeasterly direction a distance of 145.36 feet to a point; thence 18 degrees 46 minutes 45 seconds to the right in a Easterly direction a distance of 78.28 feet to a point; thence 20 degrees 07 minutes 42 seconds to the left in a Northeasterly direction a distance of 70.31 feet to a point; thence 38 degrees 51 minutes to the left in a Northeasterly direction a distance of 143.16 feet to a point on the Southwesterly right of way line of U.S. Highway No. 280; thence 92 degrees 59 minutes 54 seconds to the right in a Southeasterly direction along said right of way line a distance of 41.53 feet to a point; thence 79 degrees 04 minutes 30 seconds to the right in a Southwesterly direction a distance of 69.37 feet to the P.C. (point of curve) of a curve to the right having a radius of 167.05 feet and a central angle of 67 degrees 25 minutes; thence Southwesterly along the arc of said curve a distance of 196.55 feet to the P.T. (point of tangent) of said curve; thence Westerly in the tangent to said curve a distance of 50.00 feet to the P.C. (point of curve) of a curve to the left having a radius of 250.52 feet and a central angle of 41 degrees 05 minutes 04 seconds; thence Southwesterly along the arc of said curve a distance of 179.63 feet to the P.C.C. (point of compound curve) of a curve to the left having a radius of 160.00 feet and a central angle of 22 degrees 42 minutes 25 seconds; thence Southwesterly along the arc of said curve a distance of 63.41 feet to a point; thence 108 degrees 34 minutes 46 seconds to the left (angle measured to tangent) in a Southeasterly direction a distance of 142.71 feet to a point; thence 38 degrees 15 minutes to the right in Southeasterly direction a distance of 304.00 feet to a point; thence 70 degrees 30 minutes to the right in a Southwesterly direction a distance of 1016.00 feet to a point; thence 90 degrees 00 minutes to the right in a Northwesterly direction a distance of 257.32 feet to a point on the West line of the Southwest 1/4 of the Southeast 1/4 of said Section 36; thence 60 degrees 52 minutes to the right in a Northerly direction along the West line of said 1/4 - 1/4 section a distance of 572.42 feet to the point of beginning.

Parcel I-A-FEE

A part of Lot 1, Dewberry's Subdivision, as recorded in Map Book 9, Page 11, in the Probate Office of Shelby County, Alabama, being more particularly described as follows:

Begin at the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, said point being on the West line of said Lot 1, Dewberry's Subdivision; thence North along the West line of said 1/4 - 1/4 section a distance of 653.70 feet to a point; thence 119 degrees 08 minutes to the right in a Southeasterly direction a distance of 218.25 feet to a point; thence 11 degrees 19 minutes to the left in a Southeasterly direction of 101.98 feet to a point; thence 101 degrees 19 minutes to the right in a Southwesterly direction a distance of 591.01 feet to the point of beginning.



The foregoing Parcel I and Parcel I-A now being described by an as surveyed legal description as plotted by Robert Paul Bannerman, PLS #28090, upon a survey dated July 27, 2016 and last revised August 21, 2016, prepared by All Terrain Surveying, LLC, on behalf of American National, as Network Reference #20160716-102.

Beginning at a 1" pinched top pipe found at the southwest corner of the northwest quarter of the southeast quarter of section 36 township 18 south range 2 west; thence N00 degrees 30' 05"W a distance of 653.64' to a #4 rebar found; thence S61 degrees 21' 11"E a distance of 218.47' to a #4 rebar found; thence S72 degrees 38' 11"E a distance of 102.28' to a 1" pinched top pipe found; thence N28 degrees 41' 11"E, a distance of 104.75' to a #4 rebar found; thence S55 degrees 58' 03"E, a distance of 108.76' to a nail found; thence N72 degrees 59' 34"E, a distance of 145.33' to a nail found; thence S88 degrees 12' 08"E, a distance of 78.30' to a nail found; thence N71 degrees 37' 41"E, a distance of 70.34' to a nail found; thence N32 degrees 47' 08"E, a distance of 143.18' to a nail found; thence S54 degrees 13' 24"E, a distance of 41.52' to a #4 rebar found; thence S25 degrees 02' 16"W, a distance of 69.49' to a #4 rebar found; thence a curve to the right with the following attributes: a delta angle of 67 degrees 22' 53", a radius of 167.05', an arc length of 196.46', a chord bearing of S58 degrees 35' 36"W and a chord length of 185.33' to a #4 rebar found; thence N87 degrees 52' 11"W, a distance of 49.73' to a #4 rebar found; thence a curve to the left with the following attributes: a delta angle of 41 degrees 05' 42", a radius of 250.52', an arc length of 179.68', a chord bearing of S71 degrees 43' 20"W and a chord length of 175.86' to a #4 rebar found; thence a curve to the left with the following attributes: a delta angle of 22 degrees 43' 27", a radius of 160.00', an arc length of 63.46', a chord bearing of S39 degrees 50' 54"W and a chord length of 63.04' to a #4 rebar found; thence S80 degrees 05' 55"E, a distance of 142.72' to a #4 rebar found; thence S41 degrees 52' 15"E, a distance of 303.68' to a #4 rebar found; thence S28 degrees 38' 44"W, a distance of 1,015.81' to a 1" pinched top pipe found; thence N61 degrees 23' 57"W, a distance of 257.61' to a #4 rebar found; thence N00 degrees 28' 26"W, a distance of 572.41' to the point of beginning. Being the same as Parcel I and Parcel I-A.

#### PARCEL II- EASEMENT

A NON-EXCLUSIVE EASEMENT TO MAINTAIN, UPKEEP, REPAIR AND REPLACE AND INSTALL A SIGN AS CREATED WITHIN AN AGREEMENT RECORDED MAY 4, 2005 AS INSTRUMENT NO. 20050504000212340 BY AND BETWEEN SOUTHBALL OF HOOVER, LLC, AN ALABAMA LIMITED LIABILITY COMPANY, THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF VINCENT AND DLR ASSOCIATES, LLC, A GEORGIA LIMITED LIABILITY COMPANY.

20160907000323900 09/07/2016 09:32:27 AM MORT 32/35  
BEFORE THE ALABAMA DEPARTMENT OF REVENUE

IN RE: )  
 ) A proceeding authorized by  
BSREP II SIMPLY STORAGE )  
JV LLC, ) §40-22-2(8), *Code of Alabama* (1975)  
 )  
Petitioner.

**MORTGAGE TAX ORDER**

Petitioner, BSREP II SIMPLY STORAGE JV LLC, a Delaware limited liability company, ("Petitioner"), has asked the Department of Revenue (the "Department") to fix and determine the amount of mortgage privilege tax due pursuant to § 40-22-2(8), *Code of Alabama* (1975), as amended (the "Code"), for the privilege of recording in Alabama the following mortgages (collectively, the "Alabama Mortgages"):

1. That certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing to be executed by SS WARD AND CITATION, LLC, a Delaware limited liability company, as mortgagor, and to be filed of record in the Office of the Judge of Probate of Jefferson County, Alabama.

2. That certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing to be executed by SS HIGHWAY 150, LLC, a Delaware limited liability company, as mortgagor, and to be filed of record in the Office of the Judge of Probate of Jefferson County, Alabama.

3. That certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing to be executed by SS HIGHWAY 280, LLC, a Delaware limited liability company, as mortgagor, and to be filed of record in the Office of the Judge of Probate of Shelby County, Alabama.

SS WARD AND CITATION, LLC, SS HIGHWAY 150, LLC, and SS HIGHWAY 280, LLC are referred to herein, collectively, as the "Alabama Mortgagors").

In addition to the real property and fixture collateral described in the Alabama Mortgages located within the State of Alabama, the Indebtedness (herein defined) is secured by various other mortgages, deeds of trust, deeds to secure debt and security documents (the "Non-Alabama Mortgages" whether one or more, and, collectively with the Alabama Mortgages, the "Mortgages") on additional property located outside of the State of Alabama.

Upon consideration of said Petition and evidence offered in support thereof, the Alabama Department of Revenue finds and determines as follows:



1. That the total maximum amount of the principal indebtedness included in the obligations secured by the Alabama Mortgages is \$540,000,000.00 (the "Indebtedness") in the aggregate, consisting of one or more loans and other credit facilities.

2. That although the Indebtedness of the Alabama Mortgagors under the Loan Agreement pursuant to which the Mortgages are delivered (the "Credit Agreement") are secured by various real property and fixtures of the Borrower defined therein situated within and outside the State of Alabama, the Alabama Mortgages encumber real property and fixtures located within the State of Alabama only.

3. That the total value of all real property and fixtures ("Collateral") securing the Indebtedness, both within and outside the State of Alabama, and covered by the Mortgages is \$1,043,500,000.00.

4. That the total allocable value of the Collateral covered by the Alabama Mortgages and situated in the State of Alabama only and entirely within Jefferson and Shelby Counties (the "Alabama Collateral") is \$19,500,000.00 (the "Alabama Collateral Value"), the amount of which is apportioned among the above Counties (collectively, the "Alabama Recording Counties") as follows:

County	Alabama Collateral Value (\$)	Percentage (%)
Jefferson	\$13,000,000.00	66.67%
Shelby	\$6,500,000.00	33.33%
Total	\$19,500,000.00	100.00%

5. That the Alabama Collateral Value is one and eighty-seven hundredths percent (1.87%) of the total value of all Collateral securing the Indebtedness ( $\$19,500,000.00 \div \$1,043,500,000.00 = 1.87\%$ ).

6. That the total amount of Indebtedness allocable to the State of Alabama and upon which mortgage privilege tax will be due for recordation of the Alabama Mortgages is \$10,098,000.00 (the "Alabama Mortgage Amount"), or 1.87% of \$540,000,000.00.

7. That, based on each Alabama Recording County's share of the Alabama Collateral Value as shown above in paragraph 4, the relative percentages of the values of the Alabama Collateral lying within the Alabama Recording Counties, and each such County's pro rata share of the Alabama Mortgage Amount pursuant to said percentages and the resulting mortgage privilege tax payable thereon, are approximately as follows:

County	Alabama Collateral Value (\$)	Percentage (%)	Alabama Mortgage Amount (\$)	Mortgage Privilege Tax Payable (\$)
Jefferson	\$13,000,000.00	66.67%	\$6,732,336.70	\$10,098.50
Shelby	\$6,500,000.00	33.33%	\$3,365,663.30	\$5,048.50
Total	\$19,500,000.00	100.00%	\$10,098,000.00	\$15,147.00

8. That the Probate Judge of Jefferson County, Alabama wherein the first of the Alabama Mortgages will be recorded shall collect, upon recordation thereof, mortgage recording privilege tax in the total amount of \$15,147.00 as shown in paragraph 7 above and, pursuant to § 40-22-2(7) of the Code, shall make distribution of such tax to the State of Alabama and to the Alabama Recording Counties in the respective amounts set forth opposite each such County's name in paragraph 7 above, after deducting the probate judge's 5% commission.



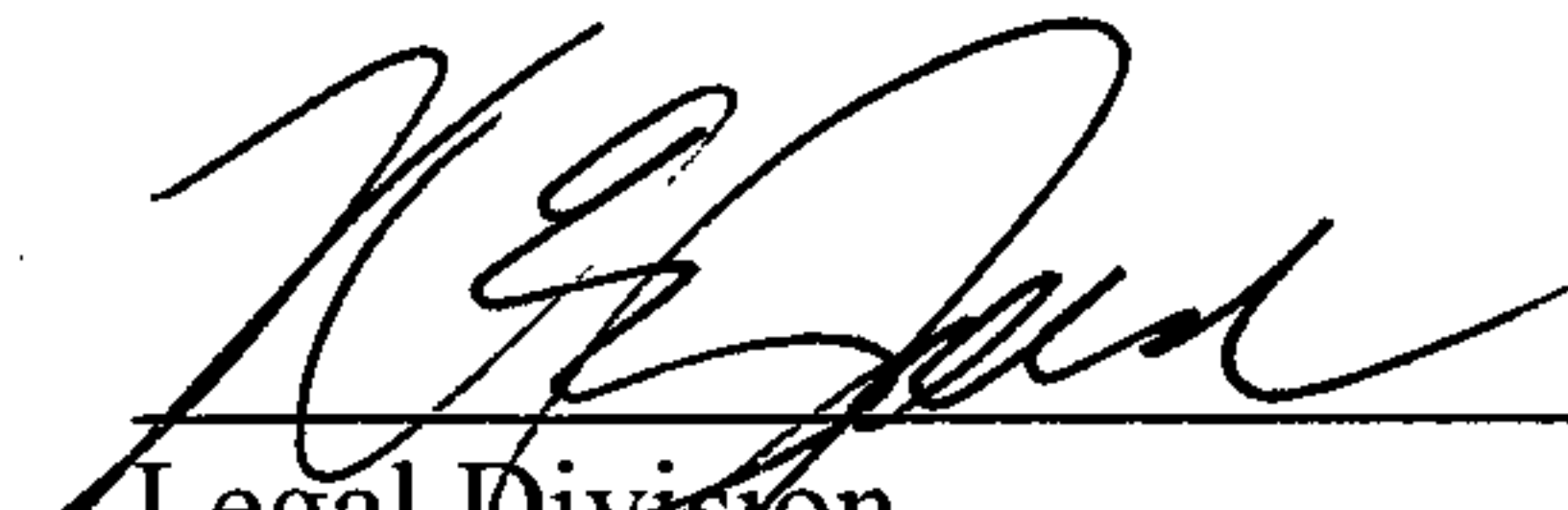
20160907000323900 09/07/2016 09:32:27 AM MORT 35/35  
DONE at Montgomery, Alabama, this the 31st day of August, 2016.

ATTEST:

ALABAMA DEPARTMENT OF REVENUE

By:   
Secretary

By:   
Deputy Commissioner of Revenue

  
Legal Division



Filed and Recorded  
Official Public Records  
Judge James W. Fuhrmeister, Probate Judge,  
County Clerk  
Shelby County, AL  
09/07/2016 09:32:27 AM  
\$15264.00 CHERRY  
20160907000323900

