
BR GREYSTONE, LLC, as mortgagor
(Individual Borrower)

to

BARCLAYS BANK PLC, in its capacity as Administrative Agent, as mortgagee

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

(ALABAMA)

(SHELBY)

Dated: As of October 6, 2022

Location: 7278 Cahaba Valley Road
Birmingham, AL 35242

County: Shelby

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

THIS INSTRUMENT WAS PREPARED BY AND UPON
RECORDATION RETURN TO:

Dechert LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104-2808
Attention: David W. Forti, Esq.

**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 6th day of October, 2022, by **BR GREYSTONE, LLC**, a Delaware limited liability company, having its principal place of business at c/o Blackstone Real Estate Advisors L.P., 345 Park Avenue, New York, New York 10154, as mortgagor (“**Individual Borrower**”), to **BARCLAYS BANK PLC**, a public limited company registered in England and Wales, having an address at 745 Seventh Avenue, New York, New York 10019; as administrative agent for the Lender (defined below) (in such capacity, “**Administrative Agent**”), as mortgagee.

W I T N E S S E T H:

WHEREAS, this Security Instrument is given to Administrative Agent, for the benefit of the Lender, to secure a mortgage loan in the principal amount of \$798,010,000 (the “**Loan**”) advanced by Lender pursuant to that certain Mortgage Loan Agreement, dated as of the date hereof, among Individual Borrower, and each of the parties identified on Schedule I attached hereto, collectively as borrower (collectively, “**Other Borrower**”; and together with Individual Borrower, collectively, “**Borrower**”), the lenders party thereto (collectively, with their respective successors and/or assigns, the “**Lender**”), Administrative Agent and the other parties named therein (as the same may be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, the “**Loan Agreement**”) and evidenced by the Note (as defined in the Loan Agreement);

WHEREAS, Individual Borrower desires to secure the payment of the Debt (as defined in the Loan Agreement) and the performance of all of the obligations of Borrower under the Note, the Loan Agreement and the other Loan Documents (as herein defined); and

WHEREAS, this Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement, and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are intended to be, and are hereby, secured by this Security Instrument (the Loan Agreement, the Note, this Security Instrument and all other documents evidencing or securing the Debt or executed or delivered in connection therewith, are hereinafter referred to collectively as the “**Loan Documents**”).

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 1 - GRANTS OF SECURITY

Section 1.1 **Property Mortgaged.** Individual Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Administrative Agent for the ratable benefit of the Lender and its successors and assigns all of Individual Borrower's right, title and interest in and to the following property, rights, interests and estates, whether now owned or hereafter acquired by Individual Borrower (collectively, the "**Property**");

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

(b) Additional Land. All additional lands, estates and development rights (to the extent assignable), in each instance, hereafter acquired by Individual Borrower for use in connection with the Land 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) Intentionally Omitted;

(d) Intentionally Omitted;

(e) 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**");

(f) 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 (to the extent assignable), and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements, and the reversions 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, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Individual Borrower of, in and to the Land and the Improvements, and every part and parcel thereof, with the appurtenances thereto;

(g) Equipment. All "goods" and "equipment," as such terms are defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Individual Borrower, which is used at or in connection with the Improvements or the Land 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 Individual 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, Equipment shall not include any property belonging to Tenants under Leases (as hereinafter defined) or guests or invitees at the Property except to the extent that Individual Borrower shall have any right or interest therein;

(h) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Individual Borrower which is so related to the Land 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 Land, 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, 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 Individual 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**"; the Land, the Improvements and the Fixtures are collectively referred to as the "**Real Property**"). Notwithstanding the foregoing, "Fixtures" shall not include any property which Tenants are entitled to remove pursuant to Leases, except to the extent that Individual Borrower shall have any right or interest therein;

(i) 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, whether tangible or intangible, other than Fixtures, which are now or hereafter owned by Individual 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 Individual 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 (the "**Uniform Commercial Code**"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above. Notwithstanding the foregoing, "Personal Property" shall not include any personal property belonging to Tenants under Leases or guests or invitees at the Property except to the extent that Individual Borrower shall have any right or interest therein;

(j) Leases and Rents. Subject to Section 1.2 hereof, all of Individual Borrower's right, title and interest in, to and under all leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral and whether now or hereafter in effect) 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 (collectively, the “**Leases**”), whether before or after the filing by or against Individual 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**”) and all right, title and interest of Individual Borrower, and its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Individual Borrower of any petition for relief under the Bankruptcy Code (collectively, the “**Rents**”) and all proceeds, to the extent assignable, from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt, provided that the “Rents” shall not include any fees or reimbursements paid by Individual Borrower to Manager under the Management Agreement;

(k) Condemnation Awards. Subject to the rights of Individual Borrower hereunder and under the Loan Agreement, all Awards which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(l) Insurance Proceeds. Subject to the rights of Individual Borrower hereunder and under the Loan Agreement, all Insurance Proceeds in respect of the Property under any Policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any Policies, judgments, or settlements made in lieu thereof, in connection with a Casualty to the Property;

(m) Tax Certiorari. All refunds, rebates or credits in connection with a reduction in Taxes or Other Charges charged against the Property;

(n) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, Insurance Proceeds and Awards, into cash or liquidation claims;

(o) Rights. Subject to the rights of Individual Borrower hereunder and under the Loan Agreement, the right, in the name and on behalf of Individual 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;

(p) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses (to the extent permitted by applicable law), plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto (subject to any restrictions on assignment), respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof and all right, title and interest of Individual Borrower therein and thereunder, including, without limitation, the right, upon the occurrence and during the continuation of an Event of Default under the Loan Agreement, to receive and collect

any sums payable to Individual Borrower thereunder, provided that, unless an Event of Default has occurred and is continuing, Individual Borrower shall be entitled to act in connection with any of the foregoing in accordance with the applicable requirements of the Loan Agreement and other Loan Documents and provided such actions do not violate any covenant contained herein or therein;

(q) Trademarks. To the extent assignable, 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;

(r) Accounts. All reserves, escrows and deposit accounts maintained by Individual Borrower with respect to the Property, including, without limitation, all accounts established or maintained pursuant to (i) the Cash Management Agreement and (ii) the Lockbox Agreement; 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 or dividends or substitutions thereon and thereof;

(s) Letter of Credit. All letter-of-credit rights (whether or not the letter of credit is evidenced by a writing) Individual Borrower now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.1;

(t) Tort Claims. All commercial tort claims Individual Borrower now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.1;

(u) Interest Rate Protection Agreement. The Interest Rate Protection Agreement, including, but not limited to, all "accounts", "chattel paper", "general intangibles" and "investment property" (as such terms are defined in the Uniform Commercial Code as from time to time in effect) constituting or relating to the foregoing; and all products and proceeds of any of the foregoing; and

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

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Individual Borrower expressly grants to Administrative Agent for the ratable benefit of 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 Land appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and encumbered hereby.

This Section 1.1 is intended to grant in favor of Administrative Agent for the ratable benefit of Lender a first priority continuing lien and security interest in all of the Property. Individual Borrower authorizes Administrative Agent (for the benefit of Lender) and its counsel to file UCC financing statements in form and substance satisfactory to Administrative Agent, describing the

collateral as all assets of Individual Borrower, all Property of Individual Borrower or using words with similar effect.

Section 1.2 Assignment of Rents. Individual Borrower hereby absolutely and unconditionally assigns to Administrative Agent for the ratable benefit of the Lender all of Individual Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Individual Borrower that this assignment constitutes a present, absolute and irrevocable assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Loan Agreement, the Cash Management Agreement and Section 7.1(h) hereof, Administrative Agent grants to Individual Borrower a revocable license, revocable at any time during the continuance of an Event of Default upon receipt by Individual Borrower of written notice thereof from Administrative Agent on behalf of Lender, provided such revocation shall be effective only while an Event of Default is continuing, to (and Individual Borrower shall have the express right to): (a) collect, receive, use and enjoy the Rents and Individual Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt and for use in accordance with the terms of the other Loan Documents and (b) otherwise deal with and enjoy the rights of lessor under the Leases.

Section 1.3 Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Individual Borrower in the Property. By executing and delivering this Security Instrument, Individual Borrower hereby grants to Administrative Agent for the ratable benefit of the Lender, as security for the Obligations (hereinafter defined), a security interest in the Fixtures (including in any event all "fixtures" (as defined in Article 9 of the Uniform Commercial Code) located on the Land), the Equipment and the Personal Property and other property constituting the Property, whether now owned or hereafter acquired, 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**"). If an Event of Default shall occur and be continuing, Administrative Agent for the ratable benefit of the Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, but upon any notice required under applicable law or under the Loan Documents, 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 Administrative Agent may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Administrative Agent after the occurrence and during the continuance of an Event of Default, Individual Borrower shall, at its expense, assemble the Collateral and make it available to Administrative Agent at a convenient place (at the Land if tangible property) reasonably acceptable to Administrative Agent. Individual Borrower shall pay to Administrative Agent within ten (10) Business Days after written demand therefor any and all out of pocket expenses, including reasonable third party legal expenses and attorneys' fees of outside counsel, actually incurred or paid by Administrative Agent in protecting Lender's 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 Administrative Agent with respect to the Collateral sent to Individual 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 commercially reasonable notice to Individual Borrower. Upon the occurrence and during the continuance of an Event of Default, the proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Administrative Agent to the payment of the Debt in such priority and proportions as Administrative Agent in its discretion shall deem proper. Individual Borrower's (debtor's) principal place of business is as set forth on page one hereof and the address of Administrative Agent (secured party) is as set forth on page one hereof.

Section 1.4 Fixture Filing. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, 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 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.

Individual Borrower hereby authorizes Administrative Agent at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable law, as applicable to all or part of the fixtures or Personal Property for purposes of evidencing the security interests granted to Administrative Agent for the ratable benefit of Lender hereunder. For purposes of such filings, Individual Borrower agrees to furnish any information reasonably requested by Administrative Agent promptly upon request by Administrative Agent. Individual Borrower also ratifies its authorization for Administrative Agent to have filed any like initial financing statements, amendments thereto and continuation statements. Individual Borrower hereby irrevocably constitutes and appoints Administrative Agent and any officer or agent of Administrative Agent, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Individual Borrower or in Individual Borrower's own name to, upon the occurrence and during the continuation of an Event of Default, execute in Individual Borrower's name any documents and otherwise to carry out the purposes of this Section 1.4, to the extent that Individual Borrower's authorization above is not sufficient. To the extent permitted by law, Individual Borrower hereby ratifies all acts said attorneys-in-fact shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable.

Section 1.5 Pledges of Monies Held. Individual Borrower hereby pledges to Administrative Agent for the ratable benefit of Lender all of its respective right, title and interest in and to any and all monies now or hereafter held by Administrative Agent for the ratable benefit of Lender or on behalf of Lender in connection with the Loan, including, without limitation, any sums deposited in the Lockbox Account, the Cash Management Account, the Reserve Funds and Net Proceeds, as additional security for the Obligations until expended or applied or distributed as provided in this Security Instrument, the Cash Management Agreement or the Loan Agreement.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto Administrative Agent for the ratable benefit of the Lender and to the use and benefit of

Administrative Agent for the ratable benefit of the Lender and their respective successors and assigns, forever, pursuant to the terms and conditions set forth herein and in the Loan Documents;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall pay to Lender the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, shall perform the Other Obligations (hereinafter defined) as set forth in this Security Instrument and shall abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void; and Lender will provide, at Individual Borrower's sole cost and expense, a satisfaction and cancellation of this Security Instrument and termination statements for filed financing statements, if any, to Individual Borrower; provided, however, that Individual Borrower's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof shall survive any such payment or release except as set forth in the last sentence of Section 9.5 hereof.

ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 Debt. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt.

Section 2.2 Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (collectively, the "**Other Obligations**"):

- (a) the performance of all other obligations of Individual Borrower contained herein;
- (b) the performance of each obligation of Borrower contained in the Loan Agreement and any 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 2.3 Debt and Other Obligations. The obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "**Obligations.**"

ARTICLE 3 - INDIVIDUAL BORROWER COVENANTS

Individual Borrower covenants and agrees that:

Section 3.1 Payment of Debt. Individual Borrower will pay, or cause to be paid, the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

Section 3.2 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.

Section 3.3 Insurance. Individual Borrower shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Individual Borrower and the Property as required pursuant to the Loan Agreement.

Section 3.4 Maintenance of Property. Individual Borrower shall cause the Property to be maintained in good working order and repair, in all material respects, normal wear and tear excepted. The Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Fixtures, the Equipment or the Personal Property, or Tenant finish and refurbishment of the Improvements) without the consent of Lender or as otherwise permitted pursuant to the Loan Agreement. Subject to and in accordance with the terms and conditions of the Loan Agreement, Individual Borrower shall (a) promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty or become damaged, worn or dilapidated and (b) complete and pay for any structure at any time in the process of construction or repair on the Land; in the case of each of (a) and (b) hereof as and to the extent provided for and governed by the provisions of the Loan Agreement.

Section 3.5 Waste. Individual Borrower shall not commit or suffer any material waste of the Property or make any change in the use of the Property which reasonably might be expected to materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that reasonably might be expected to invalidate or allow the cancellation of any Policy, or do or permit to be done thereon anything that reasonably might be expected to in any way materially impair the security of this Security Instrument. Individual Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.6 Payment for Labor and Materials. (a) Except as otherwise provided in the Loan Agreement and subject to Section 3.6(b) hereof, Individual Borrower will promptly pay or cause to be paid when due all bills and costs for labor, materials, and specifically fabricated materials (“**Labor and Material Costs**”) incurred in connection with the Property and not permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest (except for the Permitted Encumbrances), even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances.

(b) After prior written notice to Administrative Agent, Individual Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Labor and Material Costs, provided that (i) no Event of Default has occurred and is continuing under the Loan Agreement, the Note, this Security Instrument or any of the other Loan Documents, (ii) Individual Borrower is permitted to do so under the provisions of any other

mortgage, deed of trust or deed to secure debt affecting the Property, (iii) except with respect to a Permitted Encumbrance or Permitted Debt, such proceeding shall suspend the collection of the Labor and Material Costs from Individual Borrower and from the Property or Individual Borrower shall have paid all of the Labor and Material Costs under protest or Individual Borrower shall have furnished security as provided in clause (vi) below, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Individual Borrower is subject and shall not constitute a default thereunder, (v) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, and (vi) except with respect to a Permitted Encumbrance or Permitted Debt, Individual Borrower shall have furnished the security as may be required in the proceeding, or as may be reasonably requested by Administrative Agent and required pursuant to the Loan Agreement, to insure the payment of any contested Labor and Material Costs, together with all interest and penalties thereon.

Section 3.7 **Performance of Other Agreements.** Individual Borrower shall observe and perform each and every term, covenant and provision to be observed or performed by Individual Borrower pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.8 **Intentionally Omitted.**

Section 3.9 **Title.** Individual Borrower has good and insurable fee simple title to the real property comprising part of the Property and good title to the balance of such Property, free and clear of all Liens whatsoever except the Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. This Security Instrument, when properly recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a valid, perfected first priority Lien on the Property, subject only to Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents, to the extent a security interest may be perfected therein by the recording of this Security Instrument and (b) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. To Individual Borrower's knowledge, except as otherwise disclosed in the Title Insurance Policy, there are no claims for payment for work, labor or materials affecting the Property which are past due and are or may become a Lien prior to, or of equal priority with, the Liens created by the Loan Documents unless such claims for payments are being contested in accordance with the terms and conditions of the Loan Agreement or this Security Instrument.

Section 3.10 **Letter of Credit Rights.** If during the continuance of an Event of Default, Individual Borrower is at any time a beneficiary under a letter of credit relating to any lease or any of the properties, rights, titles and interests referenced in Section 1.1 hereof now or hereafter issued in favor of Individual Borrower, then Individual Borrower shall promptly notify Administrative Agent thereof and, at the request and option of Administrative Agent, Individual Borrower shall use commercially reasonable efforts to, pursuant to an agreement in form and

substance reasonably satisfactory to Administrative Agent, either (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to Administrative Agent for the ratable benefit of the Lender of the proceeds of any drawing under the letter of credit or (ii) arrange for Administrative Agent (on behalf of the Lender) to become the transferee beneficiary of the letter of credit, with Lender agreeing, in each case that the proceeds of any drawing under the letter of credit are to be applied as provided in Section 7.2 hereof.

ARTICLE 4 - OBLIGATIONS AND RELIANCES

Section 4.1 Relationship of Individual Borrower and Lender. The relationship between Individual Borrower (or any Other Borrower) and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Individual Borrower (or any Other Borrower), and no term or condition of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Individual Borrower (or any Other Borrower) and Lender to be other than that of debtor and creditor.

Section 4.2 No Reliance on Lender. The general partners, members, principals and (if Individual Borrower is a trust) beneficial owners and affiliates of Individual Borrower are experienced in the ownership and operation of properties similar to the Property, and Individual Borrower and Administrative Agent are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Neither Individual Borrower nor any Other Borrower is relying on Administrative Agent's expertise, business acumen or advice in connection with the Property.

Section 4.3 No Lender Obligations. (a) Notwithstanding the provisions of Subsections 1.1(j) and (p) or Section 1.2 hereof, Administrative Agent is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Administrative Agent 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 Policy, Administrative Agent shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Administrative Agent.

Section 4.4 Reliance. Individual Borrower recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, Administrative Agent is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Section 4.1 of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Administrative Agent or Lender; that such reliance existed on the part of Administrative Agent and Lender prior to the date hereof, that the 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 Administrative Agent would not be willing to accept this Security Instrument in the absence of the warranties and representations as set forth in Section 4.1 of the Loan Agreement.

ARTICLE 5 - FURTHER ASSURANCES

Section 5.1 Recording of Security Instrument, etc. Individual Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a Lien or security interest or evidencing the Lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the Lien or security interest hereof upon, and the interest of Administrative Agent in, the Property. Individual Borrower will pay all taxes, filing, registration or recording fees, and all reasonable out-of-pocket 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 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 the foregoing documents, except where prohibited by law so to do.

Section 5.2 Further Acts, etc. Individual Borrower will, at the cost of Individual Borrower, and without expense to Administrative Agent, do, execute, acknowledge and deliver all further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Administrative Agent shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Administrative Agent for the ratable benefit of the 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 Individual Borrower may be or may hereafter become bound to convey or assign to Administrative Agent for the benefit of Lender, 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, or for complying with all Legal Requirements. Individual Borrower, on written demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Administrative Agent to file in the name of Individual Borrower or without the signature of Individual Borrower to the extent Administrative Agent may lawfully do so, one or more financing statements to evidence more effectively the security interest of Administrative Agent for the ratable benefit of Lender in the Property. Such financing statements may describe the collateral in the same manner as described in this Security Instrument or may contain an indication or description of collateral that describes such property in any other manner, including, without limitation, all assets of Individual Borrower, as Administrative Agent may determine, in its sole discretion, is necessary or prudent to ensure the perfection of the security interest in the collateral granted to Administrative Agent for the ratable benefit of the Lender in connection herewith. Individual Borrower grants to Administrative

Agent (on behalf of 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 Administrative Agent at law and in equity upon the occurrence and during the continuance of an Event of Default, including without limitation such rights and remedies available to Administrative Agent pursuant to this Section 5.2. Notwithstanding anything to the contrary contained in the immediately preceding sentence, Administrative Agent shall not execute any documents as attorney-in-fact for Individual Borrower unless (a) Individual Borrower shall have failed or refused to execute the same within five (5) Business Days after Administrative Agent shall have given notice requesting execution thereof, or (b) an Event of Default has occurred and is continuing and in Administrative Agent's good faith determination it would be materially prejudiced by the delay involved in making such request.

Section 5.3 Changes in Tax, Debt, Credit and Documentary Stamp Laws.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Administrative Agent's interest in the Property, Individual Borrower will pay the tax, with interest and penalties thereon, if any (provided that nothing hereunder shall require Individual Borrower to pay any income tax imposed on Administrative Agent by reason of its interest in the Property). If Administrative Agent is advised in writing by counsel chosen by it that the payment of tax by Individual Borrower and/or Borrower would be unlawful or taxable to Administrative Agent or unenforceable or provide the basis for a defense of usury then Administrative Agent shall have the option by written notice of not less than one hundred eighty (180) days to declare the Debt immediately due and payable, provided, however, no Spread Maintenance Premium or penalty shall be due or payable in connection therewith and, provided further, that Administrative Agent shall not exercise such option if, within one hundred eighty (180) days of receipt by Individual Borrower of such written notice, Individual Borrower shall prepay the outstanding principal balance of the Loan in an amount equal to the Release Amount for the Property and otherwise in accordance with the terms and conditions of Section 2.6 of the Loan Agreement (provided that Section 2.6.1(a)(iv) shall not be applicable). No Spread Maintenance Premium or penalty shall be due or payable in connection with the foregoing prepayment, but if such prepayment of the Loan occurs on a day that is not a Payment Date then (solely to the extent that the Loan Agreement requires such an amount to be included in connection with voluntary prepayments of the Debt), the Debt shall include all amounts of interest which would have accrued on the amount of the Loan to be paid through and including the last day of the Interest Period related to the Payment Date next occurring following the date of such prepayment of the Loan, or, if such prepayment of the Loan occurs on a Payment Date, the Debt shall include all amounts of accrued and unpaid interest through and including the last day of the Interest Period related to such Payment Date.

(b) Individual 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, Administrative Agent shall have the option, by written notice of not less than one hundred eighty (180) days, to declare the Debt immediately due and payable provided, however, no Spread Maintenance Premium or penalty shall be due or payable in connection therewith and, provided

further, that Administrative Agent shall not exercise such option if, within one hundred eighty (180) days of receipt by Individual Borrower of such written notice, Individual Borrower shall prepay the outstanding principal balance of the Loan in an amount equal to the Release Amount for the Property and otherwise in accordance with the terms and conditions of Section 2.6 of the Loan Agreement (provided that Section 2.6.1(a)(iv) shall not be applicable). No Spread Maintenance Premium or penalty shall be due or payable in connection with the foregoing prepayment, but if such prepayment of the Loan occurs on a day that is not a Payment Date then (solely to the extent that the Loan Documents require such an amount to be included in connection with voluntary prepayments of the Debt), the Debt shall include all amounts of interest which would have accrued on the amount of the Loan to be paid through and including the last day of the Interest Period related to the Payment Date next occurring following the date of such prepayment of the Loan, or, if such prepayment of the Loan occurs on a Payment Date, the Debt shall include all amounts of accrued and unpaid interest through and including the last day of the Interest Period related to such Payment Date.

(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 impose any other tax or charge on the same, Individual Borrower will pay for the same, with interest and penalties thereon, if any, provided that Individual Borrower will have the right to contest such amounts in accordance with the terms and conditions of the Loan Agreement.

Section 5.4 Severing of Loan Documents. The provisions of Section 8.2(c) of the Loan Agreement are hereby incorporated by reference herein.

Section 5.5 Replacement Documents. Upon receipt of an affidavit of an officer of Administrative Agent as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Individual Borrower will issue, in lieu thereof, a replacement Note or other Loan Document to which it was originally a party, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

ARTICLE 6 - DUE ON SALE/ENCUMBRANCE

Section 6.1 Lender Reliance. Individual Borrower acknowledges that Lender has examined and relied on the experience of Individual Borrower and its general partners, members, principals and (if Individual 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 Individual Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Individual Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that should an Event of Default under the Loan Agreement be continuing with respect to the repayment of the Debt or the performance of the Other Obligations beyond any applicable notice and cure periods in the Loan Documents, Lender can recover the Debt by a sale of the Property.

Section 6.2 No Sale/Encumbrance. Neither Individual Borrower nor any Restricted Party shall Transfer the Property or any part thereof or any interest therein or permit or suffer the Property or any part thereof or any interest therein to be Transferred other than as expressly permitted pursuant to and in accordance with the terms of the Loan Agreement.

ARTICLE 7 - RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 Remedies. To the extent and in the manner provided by applicable law, upon the occurrence and during the continuance of any Event of Default, Individual Borrower agrees that Administrative Agent, on behalf of Lender, may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Individual 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 Administrative Agent, on behalf of Lender, may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Administrative Agent, on behalf of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) to the extent permitted by applicable law, 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;
- (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 Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Individual Borrower therein and rights of redemption thereof, pursuant to power of sale (if applicable under the laws of the State in which the Property is located), 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 as may be required or permitted by law;
- (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, 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 Individual Borrower and/or any Other Borrower, any guarantor or indemnitor with respect to the Loan or of any Person liable for the payment of the Debt;

(h) the license granted to Individual Borrower under Section 1.2 hereof shall automatically be revoked and, subject to applicable law and the rights of any Tenant under any Lease, Administrative Agent may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Individual Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise (except for any damages caused by the gross negligence, willful misconduct, fraud or illegal acts of Administrative Agent) and exclude Individual Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Individual Borrower agrees to surrender possession of the Property and of such books, records and accounts to Administrative Agent upon demand, and thereupon Administrative Agent may, subject to applicable law, (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 Administrative Agent deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Individual Borrower with respect to the Property, whether in the name of Individual Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict Tenants (subject to any non-disturbance agreements that Administrative Agent may have entered into with such Tenants, if any), and demand, sue for, collect and receive all Rents; (v) require Individual Borrower to pay monthly in advance to Administrative Agent for the ratable benefit of the 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 Individual Borrower; (vi) require Individual Borrower to vacate and surrender possession of the Property to Administrative Agent or to such receiver and, in default thereof, Individual Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Administrative Agent shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees of outside counsel) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, Insurance Premiums and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Administrative Agent, Lender and their respective counsel, agents and employees to the extent provided for in the Loan Agreement;

(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 (to the extent held to be personal property), the Equipment, the Personal Property or any part thereof, and to take such other measures as Administrative Agent may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Individual Borrower at its expense to assemble the Fixtures, the Equipment and the Personal Property and make it available to Administrative Agent at a convenient place acceptable to Administrative Agent. Any notice of sale, disposition or other intended action by Administrative Agent with respect to the Fixtures, the Equipment and the Personal Property sent to Individual Borrower in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall constitute commercially reasonable notice to Individual Borrower;

(j) subject to any express terms of the Loan Documents including, without limitation, Article VII of the Loan Agreement, apply any sums then deposited or held in escrow

or otherwise by or on behalf of Administrative Agent, for the benefit of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document (collectively, the “**Escrow Deposit**”) 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; or
- (v) All other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including, without limitation, advances made by Lender pursuant to the terms of this Security Instrument;

provided that any Escrow Deposits remaining on deposit with Administrative Agent following application of the Escrow Deposits by Administrative Agent as provided above shall be returned to Individual Borrower in accordance with and subject to the terms and provisions of the Loan Agreement and the other Loan Documents;

(k) pursue such other remedies as Administrative Agent and Lender may have under applicable law; 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 Administrative Agent, on behalf of Lender, shall deem to be appropriate in its discretion.

In the event of a sale under this Section 7.1, by foreclosure, power of sale (if applicable under the laws of the State in which the Property is located) 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.

Section 7.2 Application of Proceeds. Subject to the terms of the Loan Agreement and applicable law, upon the occurrence and during the continuance of an Event of Default, the purchase money, proceeds and avails of any disposition of the Property, and 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 by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 7.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Administrative Agent may remedy such Event of Default in such manner and to such extent as Administrative Agent may deem necessary to protect the security hereof, but without any obligation to do so and without notice to or demand on Individual Borrower or any Other Borrower, and without releasing Individual Borrower from any obligation hereunder. In connection with such Event of Default, Administrative Agent is authorized to enter

upon the Property (subject to the rights of Tenants under Leases) for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees of outside counsel to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Debt and shall be due and payable to Administrative Agent (for the ratable benefit of the Lender) upon written demand. All such costs and expenses actually incurred by Administrative Agent in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period beginning ten (10) Business Days after written notice from Administrative Agent to Individual Borrower or any Other Borrower that such cost or expense was actually incurred to the date of payment to Administrative Agent. All such costs and expenses actually incurred by Administrative Agent together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon five (5) Business Days written demand by Administrative Agent therefor.

Section 7.4 Actions and Proceedings. Subject to the terms of the Loan Agreement, Administrative Agent (on behalf of Lender) has the right to appear in and defend any action or proceeding brought with respect to the Property and, provided that, if no Event of Default has occurred and is continuing, Administrative Agent shall endeavor to cooperate with Individual Borrower and its legal counsel with respect to any defense by Administrative Agent of any such action. Subject to the terms of the Loan Agreement, Administrative Agent shall also have the right to bring any action or proceeding, in the name and on behalf of Individual Borrower, which Administrative Agent, in its discretion, decides should be brought to protect its interest in the Property, provided that Administrative Agent shall notify Individual Borrower that it intends to bring such action at least ten (10) Business Days prior to Administrative Agent instituting any such action (unless (a) an Event of Default has occurred and is continuing or (b) the provision of such notice by Administrative Agent reasonably threatens to materially prejudice Lender's rights or materially adversely affect Lender's interest in the Property or Lender's rights and remedies under the Loan Documents, in either of which events such notice shall not be required), and Administrative Agent shall endeavor to provide to Individual Borrower and its legal counsel reasonable periodic status updates as to any such action brought by Administrative Agent.

Section 7.5 Recovery of Sums Required to Be Paid. Subject to the terms of the Loan Agreement, Administrative Agent shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Administrative Agent or Lender thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Individual Borrower existing at the time such earlier action was commenced.

Section 7.6 Examination of Books and Records. Subject to the terms of the Loan Agreement, at reasonable times and upon reasonable prior written notice, Administrative Agent, its agents, accountants and attorneys shall have the right to examine the records, books, management and other papers of Individual Borrower which reflect its financial condition, at the Property or at any office regularly maintained by Individual Borrower where the books and records are located. Administrative Agent and its agents shall have the right to make copies and extracts

from the foregoing records and other papers. In addition, subject to the terms of the Loan Agreement at reasonable times and upon reasonable prior written notice, but no more often than twice in any calendar year (unless there shall occur an Event of Default, in which event the aforementioned limitation shall no longer apply), Administrative Agent, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Individual Borrower pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Individual Borrower (or of any Other Borrower) where the books and records are located. This Section 7.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing.

Section 7.7 Other Rights, etc. (a) The failure of Administrative Agent or 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. Individual Borrower shall not be relieved of Individual Borrower's obligations hereunder by reason of (i) the failure of Administrative Agent or Lender to comply with any request of Individual Borrower, any Other 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 upon the occurrence and during the continuance of an Event of Default, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof except as provided in the Loan Agreement, or (iii) any agreement or stipulation by Administrative Agent or 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 Individual Borrower, and neither Administrative Agent nor the Lender shall have any liability whatsoever for decline in value of the Property, except arising solely as a result of Administrative Agent's gross negligence, willful misconduct, fraud or illegal acts, 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 Administrative Agent 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 Administrative Agent's possession.

(c) During the continuance of an Event of Default, Administrative Agent may resort for the payment of the Debt to any other security held by Administrative Agent in connection with the Loan in such order and manner as Administrative Agent, in its discretion, may elect. During the continuance of an Event of Default, Administrative Agent on behalf of Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Administrative Agent on behalf of Lender thereafter to foreclose this Security Instrument. The rights of Administrative Agent on behalf 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 Administrative Agent on behalf of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Administrative Agent 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 7.8 Right to Release Any Portion of the Property. Subject to the terms of the Loan Agreement, Administrative Agent may release any portion of the Property for

such consideration as Administrative Agent may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Administrative Agent for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Administrative Agent 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. Subject to the terms and conditions of the Loan Agreement, Administrative Agent may take or release from the liens created by the Loan Documents other security for the payment of the Debt, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the reduction or satisfaction of the Debt without prejudice to any of its rights under this Security Instrument.

Section 7.9 Intentionally Omitted.

Section 7.10 Recourse and Choice of Remedies. Notwithstanding any other provision of this Security Instrument or the Loan Agreement (except as provided in the last sentence of this Section 7.10), Administrative Agent and other Indemnified Parties (as hereinafter defined) are entitled to enforce the obligations of Individual Borrower or any Other Borrower contained in Sections 8.2 and 8.3 hereof without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property through foreclosure, exercise of a power of sale, or acceptance of a deed in lieu of foreclosure or otherwise upon the occurrence and during the continuation of an Event of Default, and in the event Administrative Agent commences a foreclosure action against the Property, Administrative Agent is entitled to pursue a deficiency judgment with respect to such obligations against Individual Borrower (but not any partner, member, shareholder, officer, director or agent of Individual Borrower) or any Other Borrower. The provisions of Sections 8.2 and 8.3 hereof are exceptions to any non-recourse or exculpation provisions in the Loan Agreement, the Note, this Security Instrument or the other Loan Documents, and Individual Borrower and any Other Borrower are fully and personally liable for their respective obligations pursuant to Sections 8.2 and 8.3 hereof. The liability of Individual Borrower or any Other Borrower with respect to the Loan pursuant to Sections 8.2 and 8.3 hereof is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Administrative Agent (on behalf of Lender) from foreclosing, or exercising a power of sale pursuant to this Security Instrument or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Individual Borrower pursuant to Sections 8.2 and 8.3 hereof, whether or not action is brought against any Other Borrower or other Person or whether or not any Other Borrower or other Person is joined in the action or actions. In addition, Administrative Agent shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in Article 8 herein. Notwithstanding anything to the contrary in this Section 7.10, nothing in this Section 7.10 shall supersede the rights of, and limitations on, Borrower and Administrative Agent set forth in Section 9.2 of the Loan Agreement.

Section 7.11 Right of Entry. Subject to the rights of Tenants and subject to the express terms of the Loan Agreement, upon reasonable prior written notice to Individual Borrower,

Administrative Agent and its agents shall have the right to enter and inspect the Property at all reasonable times during the business day.

Section 7.12 Administrative Agent's Remedies against Multiple Parcels. The Debt and the Obligations hereby secured are also secured by other properties, lots and parcels (each an "**Other Property**" and collectively, the "**Other Properties**") covered by other mortgages and deeds of trust (collectively, the "**Other Mortgages**") within and/or outside the state where the Property is located. If this Security Instrument or any of the Other Mortgages is foreclosed upon, or if judgment is entered upon any Obligations secured hereby, or if Administrative Agent exercises its power of sale (if applicable under the laws of the State in which the Property is located), execution may be made upon or Administrative Agent (on behalf of Lender) may exercise its remedies (including any power of sale (if applicable under the laws of the State in which the applicable Other Property is located)) against any one or more of the Other Properties and not upon the Other Properties, or upon all of such Other Properties, either together or separately, and at different times or at the same time, and the exercise of such remedies, execution sales or sales under the power of sale herein granted (if applicable under the laws of the state in which the Property is located) may likewise be conducted separately or concurrently, in each case at Administrative Agent's election. No event of enforcement taking place against any Other Property, and no failure to prosecute any such other enforcement, shall in any way stay, preclude or bar enforcement of this Security Instrument, and Administrative Agent may pursue any or all of Administrative Agent's rights and remedies under this Security Instrument until the Debt and the Obligations are paid and discharged in full.

ARTICLE 8 - INDEMNIFICATION

Section 8.1 General Indemnification. Except to the extent caused by the gross negligence, fraud, illegal acts or willful misconduct of the Indemnified Parties, Individual Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties, from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, actual out-of-pocket costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement, foreseeable damages, of whatever kind or nature (including, but not limited, to reasonable third party attorneys' fees and other costs of defense) (collectively, the "**Losses**") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Security Instrument, the Property or any interest therein or receipt of any Rents; (b) any amendment to, or restructuring of, the Debt, the Note, the Loan Agreement, this Security Instrument, or any other Loan Documents (other than in connection with a syndication pursuant to Section 9.1 of the Loan Agreement), each to the extent required or requested by Borrower; (c) any and all lawful action that may be taken by Administrative Agent in connection with the enforcement of the provisions of this Security Instrument, the Loan Agreement, the Note or any of the other Loan Documents, whether or not suit is filed in connection with the same, or in connection with Individual Borrower, any Other Borrower, any guarantor or indemnitor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to, or death of, persons or loss of or damage to property occurring in, on or about the Property or any part

thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (g) the failure of any Borrower or Person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Security Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Security Instrument is made; (h) any failure of the Property to be in compliance with any Legal Requirements; (i) the enforcement by any Indemnified Party of the provisions of this Article 8; (j) any and all claims and demands whatsoever which may be asserted against Administrative Agent by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; or (k) the payment of any commission, charge or brokerage fee to anyone claiming through Individual Borrower or any Other Borrower which may be payable in connection with the funding of the Loan; in each case except to the extent such Losses were caused solely as a result of the gross negligence, fraud, illegal acts or willful misconduct of any Indemnified Party. The foregoing indemnification shall not cover liability incurred in connection with a Syndication except as provided in the Loan Agreement. Any amounts payable to Administrative Agent by reason of the application of this Section 8.1 shall become due and payable upon Administrative Agent's written demand and delivery of reasonable backup documentation therefor, and any such amounts that are not paid when due shall bear interest at the Default Rate from the date such amounts become due and payable until paid. For purposes of this Article 8, the term "**Indemnified Parties**" has the meaning ascribed to the term "Indemnified Parties" in the Loan Agreement.

Section 8.2 Mortgage and/or Intangible Tax. Individual Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

Section 8.3 ERISA Indemnification. Individual Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees of outside counsel and reasonable and documented out-of-pocket costs actually incurred in the investigation, defense, and settlement of Losses incurred in correcting any non-exempt prohibited transaction and in obtaining any individual non-exempt prohibited transaction exemption under ERISA that may be required, in Administrative Agent's reasonable discretion) that Administrative Agent may incur, directly or indirectly, as a result of an Event of Default from the breach of any of the representations made under Section 4.1.9 of the Loan Agreement.

Section 8.4 Duty to Defend; Attorneys' Fees and Other Fees and Expenses. In connection with any indemnification obligations of Individual Borrower hereunder, upon written request by any Indemnified Party, Individual Borrower shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys

and other professionals reasonably approved by the Indemnified Parties (and attorneys and other professionals selected by Individual Borrower's insurance carrier shall be deemed approved by the Indemnified Parties). Notwithstanding the foregoing, if the defendants in any such claim or proceeding include Individual Borrower, any Other Borrower and any Indemnified Party, and Individual Borrower, any such Other Borrower and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Persons or Indemnified Parties that are different from or additional to those available to Individual Borrower or any Other Borrower, then 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, provided that no compromise or settlement shall be entered without Individual Borrower's consent, which consent shall not be unreasonably withheld. Upon written demand, Individual Borrower shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and out of pocket disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals actually paid and/or disbursed in connection therewith.

ARTICLE 9 - WAIVERS

Section 9.1 Waiver of Counterclaim. To the extent permitted by applicable law, Individual 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 Administrative Agent for the ratable benefit of the 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, however, that the foregoing shall not be deemed a waiver of Individual Borrower's right to assert any compulsory counterclaim if such counterclaim is compelled under local law or rule of procedure, nor shall the foregoing be deemed a waiver of Individual Borrower's right to assert any claim which would constitute a defense, setoff, counterclaim or crossclaim of any nature whatsoever against Lender in any separate action or proceeding).

Section 9.2 Marshalling and Other Matters. To the extent permitted by applicable law, Individual Borrower hereby waives the benefit of all appraisement, 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, Individual 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 Individual Borrower, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

Section 9.3 Waiver of Notice. To the extent permitted by applicable law, Individual Borrower shall not be entitled to any notices of any nature whatsoever from Administrative Agent except with respect to matters for which this Security Instrument or the Loan Documents specifically and expressly provides for the giving of notice by Administrative Agent to Individual Borrower and except with respect to matters for which Administrative Agent is required by applicable law to give notice, and Individual Borrower hereby expressly waives the right to receive any notice from Administrative Agent with respect to any matter for which this

Security Instrument or the Loan Documents does not specifically and expressly provide for the giving of notice by Administrative Agent to Individual Borrower.

Section 9.4 Waiver of Statute of Limitations. To the extent permitted by applicable law, Individual Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 9.5 Survival. The indemnifications made pursuant to Section 8.3 hereof and the waivers made pursuant to Sections 9.1, 9.2, 9.3 and 9.4 hereof, shall continue until the Debt is paid in full force and effect and shall survive and shall in no way be impaired by any of the following: any satisfaction or other termination of this Security Instrument, any assignment or other transfer of all or any portion of this Security Instrument or Administrative Agent's interest in the Property (but, in such case, shall benefit both Indemnified Parties and any assignee or transferee), any exercise of Administrative Agent'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 Individual Borrower or by Administrative Agent following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, and any act or omission that might otherwise be construed as a release or discharge of Individual Borrower from the obligations pursuant hereto. Notwithstanding the provisions of this Security Instrument to the contrary, the liabilities and obligations of Individual Borrower shall not apply to the extent such liability and obligations arise after any Indemnified Party or its nominee acquired title to the Property, whether by foreclosure, deed in lieu of foreclosure, exercise of power of sale or otherwise.

ARTICLE 10 - EXCULPATION

The provisions of Section 9.2 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 11 - NOTICES

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

ARTICLE 12 - APPLICABLE LAW

Section 12.1 Governing Law. THIS SECURITY INSTRUMENT SHALL BE GOVERNED IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 10.3 OF THE LOAN AGREEMENT; PROVIDED THAT ARTICLE 15 AND THE PROVISIONS OF THIS SECURITY INSTRUMENT REGARDING THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS HEREIN GRANTED

SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED.

Section 12.2 Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Individual Borrower, any Other Borrower and Administrative Agent are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Administrative Agent for the benefit of 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, Administrative Agent 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, without payment of the Spread Maintenance Premium, of any and all then outstanding indebtedness of Borrower to Lender, or if there is no such indebtedness, shall immediately be returned to Individual Borrower.

Section 12.3 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 13 - DEFINITIONS

All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the term “**Individual Borrower**” shall mean “each Individual Borrower” and any subsequent owner or owners of the Property or any part thereof or any interest therein, and shall be deemed to refer to each and every Person comprising an Individual Borrower from time to time, jointly and severally, and to include the successors and assigns of each such Person, the term “**Borrower**” shall be deemed to refer to each and every Person comprising a Borrower from time to time, jointly and severally, and to include the successors and assigns of each such Person, the term “**Other Borrower**” shall mean each Other Borrower and any subsequent maker or makers of the Note, jointly and severally, and to include the successors and assigns of each such Person, the word “**Lender**” shall mean each 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 term “**Administrative Agent**” shall mean Administrative Agent and any of Administrative Agent’s successors and assigns, the word “**Property**” shall include any portion of the Property and any interest therein, and the phrases “**attorneys’ fees**”, “**legal fees**” and “**counsel fees**” shall include any and all reasonable attorneys’, paralegal and law clerk fees and disbursements of outside counsel, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Administrative Agent

or Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

Section 14.1 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 Individual Borrower, Administrative Agent or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought or by repayment of the Debt in full in accordance with the Loan Agreement.

Section 14.2 Successors and Assigns. This Security Instrument shall be binding upon and inure to the benefit of Individual Borrower, Administrative Agent and Lender and their respective successors and assigns forever.

Section 14.3 Inapplicable Provisions. If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

Section 14.4 Headings, etc. The headings and captions of 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 14.5 Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 14.6 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, Administrative Agent, on behalf of 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 Administrative Agent, for the benefit of Lender, and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Individual Borrower's and each Other Borrower's obligations hereunder, under the Loan Agreement, the Note and the other Loan Documents and the performance and discharge of the Other Obligations, except as otherwise agreed to or accepted by Administrative Agent, on behalf of Lender.

Section 14.7 Entire Agreement. The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement between Individual Borrower (or Borrower, as applicable) and Administrative Agent with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Individual Borrower (or Borrower, as applicable) and

Administrative Agent with respect thereto. Individual 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 Administrative Agent 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 14.8 Limitation on Administrative Agent'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 Administrative Agent, nor shall it operate to make Administrative Agent responsible or liable for any waste committed on the Property by the Tenants or any other Person, 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, other than as a result of actions of Lender that constitute gross negligence or willful misconduct. Nothing herein contained shall be construed as constituting Administrative Agent a "mortgagee in possession."

Section 14.9 WAIVER OF TRIAL BY JURY. INDIVIDUAL BORROWER, AND BY ITS ACCEPTANCE HEREOF, ADMINISTRATIVE AGENT, EACH HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THIS SECURITY INSTRUMENT, THE NOTE, OR THE OTHER LOAN DOCUMENTS OR ANY ACTS OR OMISSIONS OF ADMINISTRATIVE AGENT, ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.

Section 14.10 Conflict of Terms. In case of any conflict between the terms of this Security Instrument and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

Section 14.11 Release or Assignment of Security Instrument. Notwithstanding anything to the contrary herein, if all of the Debt is indefeasibly paid or the Property is released from the lien of this Security Instrument in accordance with Section 2.6.1 of the Loan Agreement in connection with a release of Individual Borrower as a "Borrower" under the Loan Agreement pursuant to the express terms thereof or as may otherwise be permitted by the terms of the Loan Agreement, then and in that event only, all rights, except those indemnifications made pursuant to Sections 8.1, 8.2, 8.3 and 8.4 hereof, under this Security Instrument shall automatically terminate and the Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, which shall be promptly released of record by Administrative Agent in due form. To the extent requested by Individual Borrower, Administrative Agent on behalf of the Lender agrees to assign the Note and this Security Instrument to such party as may be designated by Borrower upon the repayment (or purchase by another lender designated by Borrower) in full of the Debt or upon release of the Property as may otherwise be permitted under the Loan Agreement and Administrative Agent will cooperate in the preparation of all of the necessary documentation to effectuate an assignment of this Security Instrument and the indebtedness secured thereby, including the delivery of originals of the Loan Documents. All reasonable costs actually incurred by Administrative Agent under this paragraph, including,

without limitation, reasonable third-party attorney's fees and disbursements, promptly shall be reimbursed by Borrower.

ARTICLE 15 - STATE-SPECIFIC PROVISIONS

Section 15.1 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 15 and the terms and conditions of this Security Instrument, the terms and conditions of this Article 15 shall control and be binding.

Section 15.2 Power of Sale. In addition to the rights and remedies set forth in Article 7, 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 Administrative Agent 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 Administrative Agent may from time to time elect to sell) under the power of sale which is hereby given to Administrative Agent, 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 between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. Administrative Agent may bid at any sale held under this Security Instrument 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 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, Individual Borrower hereby waiving the application of any doctrine of marshalling or like proceeding. In case Administrative Agent, 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 15.3 Foreclosure Deeds. To the extent permitted by applicable law, Individual Borrower hereby authorizes and empowers Administrative Agent or the auctioneer at any foreclosure sale had hereunder, for and in the name of Individual 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 15.4 Multiple Sales. If an Event of Default exists, Administrative Agent 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 15.5 Amended Provisions. Section 3.9 of this Security Instrument is hereby amended by deleting at the beginning thereof the text “Individual Borrower has good and insurable fee simple title” and by inserting in lieu thereof the following text “Individual Borrower has and is seized of good, marketable and insurable fee simple title”. Also, Section 1.1 of this Security Instrument is hereby amended by deleting at the beginning thereof the text “Individual Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Administrative Agent for the ratable benefit of the Lender and its successors and assigns,” and by inserting in lieu thereof the following text “As security for the Obligations, Individual Borrower hereby grants, bargains, sells, assigns and conveys unto the Administrative Agent for the ratable benefit of the Lender, and hereby grants to the Administrative Agent a security interest in, all of Mortgagor's right, title and interest in, to and under”.

Section 15.6 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 1.1. Individual Borrower is the debtor, and Administrative Agent is the secured party. The names of the debtor (Individual Borrower) and the secured party (Administrative Agent) are given in the first paragraph of this Security Instrument. The mailing address of Administrative Agent set out in the first paragraph hereof is the address of the secured party from which information concerning the security interest may be obtained. The mailing address of the Individual 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 1.1 and in this Section 15.6. The real estate to which the goods are or are to be affixed is described in Exhibit A. The Individual Borrower is the record owner of the Fee Land.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

INDIVIDUAL BORROWER:

BR GREYSTONE, LLC,
a Delaware limited liability company

By: 
Name: Richard Reyes
Title: Managing Director and Vice President

ACKNOWLEDGMENT

STATE OF NEW YORK)

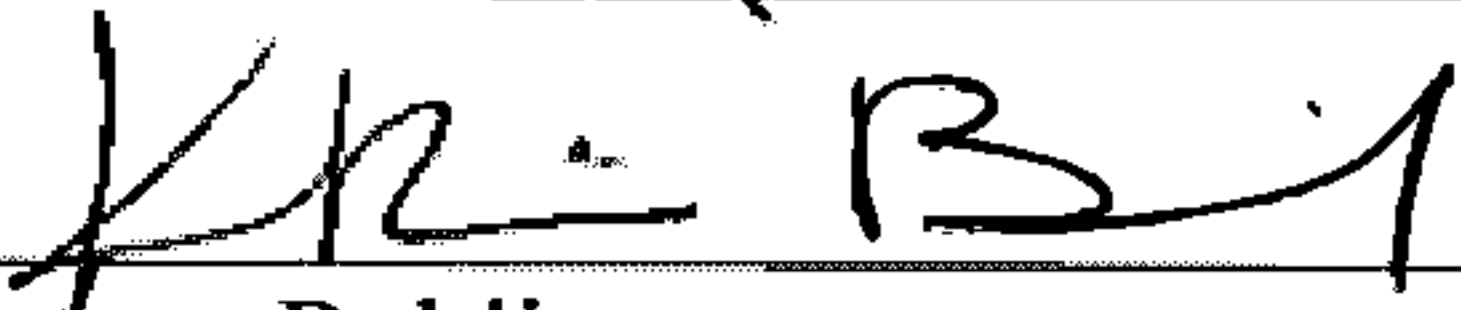
ss.:

COUNTY OF NEW YORK)

On September 19, 2022, before me, the undersigned officer, personally appeared Richard Reyes personally known and acknowledged himself / herself to me (or proved to me on the basis of satisfactory evidence) to be the Managing Director and Vice President of the foregoing executing entity (hereinafter, the "Entity") and that as such officer, being duly sworn, and being authorized to do so pursuant to its bylaws or a resolution, executed, subscribed and acknowledged the due execution of the foregoing instrument for the purposes therein contained, by signing the name of the Entity by himself / herself in his / her authorized capacity as such officer as his / her free and voluntary act and deed and the free and voluntary act and deed of said Entity.
*** Witness my hand and official seal.

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Richard Reyes whose name as the Managing Director and Vice President of BR Greystone, LLC, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such managing member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 19th day of September, 2022.


Notary Public
My Commission Expires: _____

Kathia Boisrond
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01BO6432646
Qualified in Kings County
Commission Expires 5/31/2026

SCHEDULE I

OTHER BORROWERS

1. BR Citrus Tower, LLC
2. BR St. Lucie, LLC
3. BR Sands Parc, LLC
4. BR Carroll Glenridge, LLC
5. BR Carroll Sandy Springs, LLC
6. BR Carroll Tenside, LLC
7. BR Falls at Forsyth, LLC
8. BR Wesley Village, LLC
9. BR Greenville, LLC
10. BR F&B Chevy Chase, LLC
11. BR 8700 Brodie Lane, LLC
12. BR F&B Willow Chase BLVD, LLC
13. BR-HR Cypress Creek, LLC

7278 Cahaba Valley Road
Birmingham, AL 35242
(Shelby County)

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SHELBY, STATE OF ALABAMA, AND IS DESCRIBED AS FOLLOWS:

LOT 1, ACCORDING TO THE SURVEY OF SPRINGS @ GREYSTONE, AS RECORDED IN MAP BOOK 35, PAGE 96, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

TOGETHER WITH:

A PERPETUAL GRADING EASEMENT, AS SET FORTH IN INSTRUMENT NO. 20051116000598410, LYING IN SECTION 29, TOWNSHIP 18 SOUTH, RANGE 1 WEST, SHELBY COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 00 SECONDS WEST ALONG THE EAST LINE OF SAID 1/4 - 1/4 FOR A DISTANCE OF 104.72 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 65 DEGREES 05 MINUTES 02 SECONDS EAST LEAVING SAID EAST LINE A DISTANCE OF 22.01 FEET TO A POINT; THENCE SOUTH 00 DEGREES 14 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 220.45 FEET TO A POINT; THENCE RUN NORTH 53 DEGREES 31 MINUTES 37 SECONDS WEST A DISTANCE OF 24.80 FEET TO A POINT ON SAID EAST LINE; THENCE NORTH 00 DEGREES 14 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 214.99 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PERPETUAL GRADING EASEMENT, AS SET FORTH IN INSTRUMENT NO. 20051116000598420, LYING IN SECTION 29, TOWNSHIP 18 SOUTH, RANGE 1 WEST, SHELBY COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29; THENCE RUN N 00 DEGREES 14 MINUTES 00 SECONDS EAST ALONG THE EAST LINE OF SECTION 29 FOR A DISTANCE OF 10.00 FEET TO A POINT; THENCE N 89 DEGREES 42 MINUTES 54 SECONDS E FOR A DISTANCE OF 20.00 FEET TO A POINT; THENCE RUN SOUTH 00 DEGREES 14 MINUTES

00 SECONDS WEST A DISTANCE OF 124.10 FEET TO A POINT; THENCE NORTH 65 DEGREES 05 MINUTES 02 SECONDS EAST FOR A DISTANCE OF 22.01 FEET TO A POINT; THENCE NORTH 00 DEGREES 14 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 104.72 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PERPETUAL DRAINAGE EASEMENT, AS SET FORTH IN INSTRUMENT NO. 20051116000598400, LYING IN SECTION 29, TOWNSHIP 18 SOUTH, RANGE 1 WEST, AS DEPICTED ON EXHIBIT C OF THE EASEMENT AND LABELED "STORM WATER EXIT AREA."

Tax Parcel Number: 03-9-29-0-001-011.000

STATE OF ALABAMA
BEFORE THE ALABAMA DEPARTMENT OF REVENUE

IN RE:)
) A proceeding authorized by
BARCLAYS BANK PLC,)
as Lender and as Administrative) §40-22-2(8), Code of Alabama 1975
Agent, on behalf of itself and the)
other lenders)
)
Petitioner.)

MORTGAGE TAX ORDER

COMES THE PETITIONER, BARCLAYS BANK PLC, in its capacity as lender and administrative agent for itself, and the other lenders, and asks the Alabama Department of Revenue to fix and determine the amount of mortgage recording privilege tax due, pursuant to § 40-22-2(8), Code of Alabama 1975, for the privilege of recording a certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the “Mortgage”) from BR Greystone, LLC, a Delaware limited liability company (“Mortgagor”), to Petitioner, which secures obligations of Mortgagor and/or affiliates thereof to Petitioner and the other lenders (“Obligations”). In addition to the real property, fixtures and related collateral described in the Mortgage located within the State of Alabama, the Obligations are secured by mortgages, deeds of trust and/or other security instruments on additional real property, fixtures, inventory, accounts receivable and personal property located outside 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 amount of the principal indebtedness of the Obligations secured by said Mortgage is \$798,010,000.00, consisting of a loan from the Petitioner, as a lender, and the other lenders to Mortgagor and/or affiliates thereof.
2. That the total value of all property granted as security for the Obligations, located both within and without the State of Alabama is \$1,389,500,000.00.
3. That the value of the property encumbered by the Mortgage and located within the State of Alabama is \$70,300,000.00.
4. That the total maximum amount of principal indebtedness of the Obligations to be secured by the Mortgage which is allocable to the State of Alabama and upon which tax is due is \$40,379,306.00 (rounded up to \$40,379,400.00), being based on 5.06% (i.e., 0.0506) of the total value of all real property securing such Obligations.

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5. That the amount of mortgage recording privilege tax due to be paid upon recordation of the Mortgage, calculated at the rate of \$.15 per each \$100.00 of such Obligations, or fraction thereof, is \$60,569.10.

IT IS ORDERED, THEREFORE, as follows:

1. That the amount of the indebtedness under the Mortgage allocable to Alabama and upon which mortgage recording privilege tax will be due under § 40-22-2, Code of Alabama 1975, as amended, is \$40,379,400.00.
2. That the Judge of Probate of Shelby County, shall collect mortgage recording privilege tax in the amount of \$60,569.10, plus any recording and filing fees which may be due upon recordation.

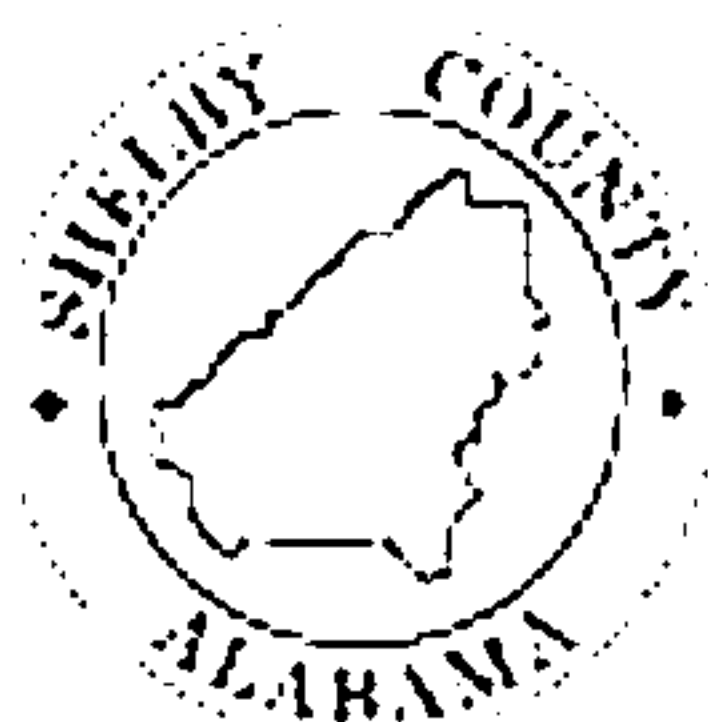
DONE this 3rd day of October, 2022.

**STATE OF ALABAMA DEPARTMENT
OF REVENUE**

By: *William Mitchell*
Secretary

By: *Derrick Coleman*
Deputy Commissioner of Revenue

[Signature]
Legal Division



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
10/11/2022 11:29:32 AM
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Allen S. Bayl