

PREPARED BY:

Sullivan & Worcester LLP
Attention: Louis A. Monti, Esq.
One Post Office Square
Boston, MA 02109

AFTER RECORDING RETURN TO:

U.S. Bank National Association
1133 Rankin Street, Suite 100
St. Paul, Minnesota 55116
Attention: Document Custody Services – SVC 2023-1

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

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (this "*Mortgage*") is made as of the 10th day of February, 2023, by SVC ABS LLC, a Delaware limited liability company (sometimes referred to herein as "*Borrower*" "*Issuer*" or "*Mortgagor*"), whose address is Two Newton Place, 255 Washington Street, Suite 300, Newton, Massachusetts 02458, to and for the benefit of Citibank, N.A., a national banking association chartered under the laws of the United States of America, having an address at 388 Greenwich Street, New York, New York 10013, Attention: Citibank Agency & Trust – SVC 2023-1, not in its individual capacity, but solely as indenture trustee under the Master Indenture for the benefit of the Secured Parties, as beneficiary (together with its successors and assigns, "*Indenture Trustee*").

PRELIMINARY STATEMENT:

The capitalized terms used in this Mortgage, if not elsewhere defined in the first paragraph above or in Article I of this Mortgage shall have the meaning given such terms in the Master Indenture. Borrower holds the fee simple interest in the Mortgaged Property (as defined in the Granting Clauses below), free and clear of all liens whatsoever except the Permitted Encumbrances (as defined in the Master Indenture), such other liens as are permitted pursuant to the Loan Documents and the liens created by the Loan Documents. Borrower is executing this Mortgage for the purpose of granting all of the interest of Borrower in and to the Mortgaged Property as security for the payment of the Obligations (as defined herein) including, without limitation, repayment of all amounts due under the Note (as such Note (as defined herein), together with any amendments thereto, may be extended, restated or otherwise modified as provided therein). The Mortgaged Property shall be and remain subject to the lien of this Mortgage and shall constitute security for the Obligations so long as the Obligations shall remain outstanding.

GRANTING CLAUSES:

Mortgagor, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by these presents does hereby create a security interest in, mortgage, grant, bargain, sell, assign, pledge, give, transfer, set over and convey unto Indenture Trustee and its successors and assigns, WITH POWER OF SALE AND RIGHT OF ENTRY, all of Mortgagor's estate, right, title and interest in, to and under the Land (hereinafter defined), the Improvements (hereinafter defined) and any and all of the following property (together with the Land and the Improvements, collectively the "*Mortgaged Property*"), whether now owned or hereafter acquired, subject only to the Permitted Encumbrances:

Asset #416201
Shelby County, Alabama

US_ACTIVE\122410970\W-2

A. Mortgaged Property, Rents and Derivative Interests

All rents, issues, profits, royalties, income and other benefits derived by Mortgagor from the property comprising the Mortgaged Property and the Personal Property (as defined herein) or any portion thereof and any and all lump-sum payments made in connection with the early termination of any Lease (collectively, the "*Rents*"); all leases or subleases covering the Mortgaged Property and the Personal Property or any portion thereof now or hereafter existing or entered into (collectively, "*Leases*" and individually, a "*Lease*"), including, without limitation, all cash or security deposits, advance rentals and deposits or payments of similar nature and all guaranties relating to the Leases; all options to purchase or lease the Mortgaged Property and the Personal Property or any portion thereof or interest therein, and any greater estate in the Mortgaged Property; all interests, estate or other claims, both in law and in equity, with respect to the Mortgaged Property and the Personal Property or any portion thereof; all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same; all land lying within the right-of-way of any street, open or proposed, adjoining the Mortgaged Property and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Mortgaged Property;

B. Personal Property

All tangible personal property owned by Mortgagor and now or at any time hereafter located on or at the Mortgaged Property or used in connection therewith, including, without limitation, all machinery, appliances, furniture, equipment and inventory (the "*Personal Property*"), but excluding any Personal Property owned by the Tenant under any Lease other than as pledged as security under such Lease;

C. Intangibles

All existing and future accounts, contract rights, including, without limitation, with respect to equipment leases, general intangibles, files, books of account, agreements, franchise, license and/or area development agreements, distributor agreements, indemnity agreements, permits, licenses and certificates necessary or desirable in connection with the acquisition, ownership, leasing, construction, operation, servicing or management of the property comprising the Mortgaged Property or any portion thereof, whether now existing or entered into or obtained after the date hereof, all existing and future names under or by which the property comprising the Mortgaged Property and the Personal Property or any portion thereof may at any time be operated or known, all rights to carry on business under any such names or any variant thereof, and all existing and future telephone numbers and listings, advertising and marketing materials, trademarks and good will in any way relating to the property comprising the Mortgaged Property or any portion thereof; and

D. Claims and Awards

All the claims or demands with respect to the Mortgaged Property or any portion thereof, including, without limitation, claims or demands with respect to the proceeds of insurance in effect with respect thereto, claims under any indemnity agreement, including, without limitation, any indemnity agreement executed for the benefit of the Mortgaged Property or any portion thereof with respect to Hazardous Substances or USTs, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Mortgaged Property and the Personal Property, including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages.

E. Tax Certiorari.

All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

F. Rights Regarding Actions.

The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Indenture Trustee in the Property;

G. Other Rights.

Any and all other rights of Mortgagor in and to the items set forth above.

The Mortgaged Property shall include all products and proceeds of the foregoing property.

TO HAVE AND TO HOLD the Mortgaged Property hereby granted or mortgaged or intended to be granted or mortgaged, unto Indenture Trustee and its successors and assigns, upon the terms, provisions and conditions set forth herein.

THIS MORTGAGE SHALL SECURE THE FOLLOWING INDEBTEDNESS AND OBLIGATIONS, whether now existing or arising after the date hereof (collectively, the "*Obligations*");

(i) Payment of indebtedness evidenced by the Note together with all extensions, renewals, amendments and modifications thereof;

(ii) Payment of all other indebtedness and other sums, with interest thereon, which may be owed pursuant to, and performance of all other obligations and covenants contained in, the Loan Documents, together with any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby or thereby; and

(iii) Payment of all other indebtedness and other sums, with interest thereon, which may be owed pursuant to, and performance of all other obligations pursuant to, the Loan.

It is the intention of the parties hereto that the Mortgaged Property shall secure all of the Obligations presently or hereafter owed, and that the priority of the security interest created by this Mortgage for all such Obligations shall be first priority and controlled by the time of proper recording of this Mortgage and shall perfect all additional amounts funded under the Master Indenture as a future obligatory advance. In addition, this Mortgage shall also secure unpaid balances of advances made (1) under the Master Indenture for payment of any fees and expenses of Indenture Trustee otherwise in connection with the obligations of Mortgagor's obligations under the Master Indenture, (2) with respect to the Mortgaged Property for the payment of taxes, assessments, insurance premiums, costs or any other advances incurred for the protection of the Mortgaged Property, together with interest thereon until paid at the applicable Note Rate, all as contemplated in this Mortgage, (3) under the terms of the Master Indenture, all of which shall constitute a part of the Obligations secured hereby. This paragraph shall serve as notice to all persons who may seek or obtain a lien on the Mortgaged Property subsequent to the date of recording of this Mortgage, that until this Mortgage is released, any debt owed to any Secured Party by Mortgagor (or any other obligor whose Obligations are to be secured by this Mortgage), including advances and re-advances (including, but without limitation, protective advances for the purpose of protecting the lien and priority of this Mortgage and the value of the Mortgaged Property) made subsequent to the recording of this Mortgage, shall be secured with the priority afforded this Mortgage as recorded.

The Loan may not be prepaid in whole or in part except as provided under the terms of the applicable Note and/or Master Indenture.

IT IS HEREBY COVENANTED, DECLARED AND AGREED that the Note and the other Loan Documents are to be executed, delivered and secured and that the Mortgaged Property is to be held and disposed of by Indenture Trustee, upon and subject to the provisions of this Mortgage and the Master Indenture.

ARTICLE I

DEFINED TERMS

Section 1.01. *Incorporation of Other Definitions.* Capitalized terms used in this Mortgage, if not elsewhere parenthetically defined in the preamble hereto or Section 1.02 of this Mortgage, shall have the meaning given such terms in the Master Indenture.

Section 1.02. *Definitions.* Unless the context otherwise specifies or requires, the following terms shall have the meanings specified (such definitions to be applicable equally to singular and plural nouns and verbs of any tense):

“*Event of Default*” has the meaning set forth in Section 6.01.

“*Existing Note*” means, collectively, the existing Notes (as defined in the Master Indenture), as the same may hereafter be amended, supplemented, extended restated or increased.

“*Improvements*” means all buildings, fixtures and other improvements now or hereafter located on the Land (whether or not affixed to the Land).

“*Indemnified Parties*” means Indenture Trustee and any Secured Party (and any agent of Indenture Trustee) (and after the date of any Notice of Assignment (as defined in the Master Indenture) delivered pursuant to the Master Indenture, Indenture Trustee, if any, and any person or entity who is or will have been involved in the origination of the Loan, any person or entity who is or will have been involved in the servicing of the Loan, any person or entity in whose name the encumbrance created by this Mortgage is or will have been recorded, persons and entities who may hold or acquire or will have held a full or partial interest in the Loan, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Loan for the benefit of third parties), as well as the respective directors, officers, shareholders, partners, members, employees, lenders, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including but not limited to any other person or entity who holds or acquires or will have held a participation or other full or partial interest in the Loan or the Mortgaged Property, whether during the term of the Loan or as a part of or following a foreclosure of the Loan and including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of Indenture Trustee’s assets and business)

“*Indenture Trustee*” has the meaning assigned to such term in the Preliminary Statement and includes any successor Indenture Trustee pursuant to the Master Indenture.

“*Issuer*” shall mean an “Issuer” as defined in the Master Indenture.

“*Land*” means the parcel or parcels of real estate legally described in Exhibit A attached hereto, and all rights, privileges and appurtenances therewith.

“*Lease*” and “*Leases*” have the meaning set forth in the Granting Clause.

“*Loan*” means, collectively, the loans made to Mortgagor (or any other Issuer) from time to time pursuant to the Master Indenture.

“*Loan Documents*” means the Master Indenture, the Notes, this Mortgage and any other document or instrument evidencing and/or securing any part or all of the Loan.

“*Losses*” has the meaning set forth in Section 7.10.

“*Master Indenture*” means that certain Master Indenture dated as of the date hereof between Issuer and Indenture Trustee, not individually but solely in its capacity as trustee, as the same may hereafter be amended or supplemented, including but not limited to any amendment or supplement thereto which adds an additional Issuer (as

defined in such Master Indenture) and/or which provides for issuances of additional Notes by any one or more present or future Issuers (including Mortgagor).

“Mortgaged Property” has the meaning set forth in the Granting Clause.

“Note” means, collectively, (a) the Existing Note, and (b) any other Note (other than the Existing Note) as defined in the Master Indenture.

“Noteholder” has the meaning set forth in the Master Indenture.

“Notices” has the meaning set forth in Section 7.05.

“Obligations” has the meaning set forth in the Granting Clauses.

“Outstanding Obligations”, means the sum of the outstanding principal balance of the Note and all other Obligations, all accrued but unpaid interest on the Note and such Obligation, all sums advanced by Indenture Trustee under this Mortgage and all other sums due and payable under this Mortgage (including any Make Whole Amount and Post-ARD Additional Interest) and the other Loan Documents corresponding to the Mortgaged Property.

“Personal Property” has the meaning set forth in the Granting Clause.

“Prohibited Transaction” has the meaning set forth in Section 3.06.

“Recordable Documents” has the meaning set forth in Section 3.01.

“Rents” has the meaning set forth in the Granting Clause.

“Restoration” means the restoration, replacement or rebuilding of the Mortgaged Property, or any part thereof, as nearly as possible to its value, condition and character immediately prior to any damage, destruction or Taking.

“Secured Parties” means Indenture Trustee, the Noteholders and the other secured parties under the Master Indenture.

“State” means the State in which the Land is located.

“Taking” has the meaning set forth in Section 4.01(b).

“UCC” has the meaning set forth in Section 6.02(iii).

ARTICLE II

INCORPORATION OF REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER

The representations, warranties and covenants of Borrower set forth in any Note and the Master Indenture are incorporated by reference into this Mortgage as if stated in full in this Mortgage. All representations and warranties as incorporated herein shall be deemed to have been made as of the date of this Mortgage and all representations, warranties and covenants incorporated herein shall survive the execution and delivery of this Mortgage.

ARTICLE III

COVENANTS OF BORROWER

In addition to any covenants of Borrower set forth in any Note, the Master Indenture or any other Loan Document, Borrower hereby covenants to Indenture Trustee and agrees as follows until the Obligations are satisfied in full:

Section 3.01. *Recording.* Borrower shall, upon the execution and delivery hereof and thereafter from time to time, take such actions as Indenture Trustee may request to cause this Mortgage, each supplement and amendment to such instrument and financing statements with respect thereto and each instrument of further assurance (collectively, the "*Recordable Documents*") to be filed, registered and recorded as may be required by law to publish notice and maintain the first lien or security interest, as applicable, hereof upon the Mortgaged Property and to publish notice of and protect the validity of the Recordable Documents. Borrower shall, from time to time, perform or cause to be performed any other act and shall execute or cause to be executed any and all further instruments (including financing statements, continuation statements and similar statements with respect to any of said documents) requested by Indenture Trustee for carrying out the intention of, or facilitating the performance of, this Mortgage. Indenture Trustee shall be and is hereby irrevocably appointed the agent and attorney-in-fact of Borrower to comply therewith (including the execution, delivery and filing of such financing statements and other instruments), which appointment is coupled with an interest; provided, however, Indenture Trustee shall not exercise such power of attorney unless Borrower has first failed to comply with this Section, and provided, further, that this sentence shall not prevent any default in the observance of this Section from constituting an Event of Default. To the extent permitted by law, Borrower shall pay or cause to be paid recording taxes and fees incident thereto and all expenses, taxes and other governmental charges incident to or in connection with the preparation, execution, delivery or acknowledgment of the Recordable Documents, any instruments of further assurance and the Note.

Section 3.02. *Use; Leases.* The Mortgaged Property shall be used solely as contemplated in the Leases. Unless Indenture Trustee otherwise consents or elects, Borrower's title to the Mortgaged Property and the leasehold interest in the Mortgaged Property created by any Lease shall not merge, but shall always be kept separate and distinct, notwithstanding the union of such estates in Borrower, Indenture Trustee or any other person by purchase, operation of law, foreclosure of this Mortgage, sale of the Mortgaged Property pursuant to this Mortgage or otherwise. Borrower shall fulfill, perform and observe in all respects each and every material condition and covenant of Borrower contained in any Lease in accordance with the terms and conditions set forth in the Master Indenture.

Section 3.03. *After-Acquired Property.* All right, title and interest of Borrower in and to all improvements, alterations, substitutions, restorations and replacements of, and all additions and appurtenances to, the Mortgaged Property, hereafter acquired by or released to Borrower, immediately upon such acquisition or release and without any further granting by Borrower, shall become part of the Mortgaged Property and shall be subject to the lien hereof fully, completely and with the same effect as though now owned by Borrower and specifically described in the Granting Clauses hereof. Borrower shall execute and deliver to Indenture Trustee any further assurances, mortgages, grants, conveyances or assignments thereof as Indenture Trustee may reasonably require to subject the same to the lien hereof.

Section 3.04. *Taxes, Assessments, Charges and Other Impositions.* (a) Borrower shall do or cause to be done everything necessary to preserve the lien hereof without expense to Indenture Trustee, including, without limitation, enforcing the payment obligations of the lessees under the Leases. Unless contested in accordance with the terms and conditions of the Master Indenture, Borrower shall pay or cause to be paid prior to delinquency any and all taxes, assessments, water and sewer charges, and other charges now or hereafter assessed against the Mortgaged Property.

(b) *Insurance.* Borrower shall maintain, with respect to the Mortgaged Property, at its sole expense, or cause the lessees under the Leases to maintain at such lessee's expense, the types and amounts of insurance required by the Leases.

Section 3.05. *Intentionally Omitted.*

Section 3.06. *Negative Covenants.* Without limiting the terms and conditions of Section 10 of the Master Indenture, Borrower agrees that Borrower shall not, without the prior written consent of Indenture Trustee (each, a “*Prohibited Transaction*”), sell, convey, mortgage, grant, bargain, encumber, pledge, assign, or otherwise transfer the Mortgaged Property or any part thereof or permit the Mortgaged Property or any part thereof to be sold, conveyed, mortgaged, granted, bargained, encumbered, pledged, assigned, or otherwise transferred, other than Permitted Encumbrances, sales from inventory in the ordinary course of business, the replacement of obsolete Personal Property and any other such matter as may be expressly permitted by the Loan Documents. A sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer within the meaning of this Section shall be deemed to include, but not limited to, (a) an installment sales agreement wherein Borrower agrees to sell the Mortgaged Property or any part thereof for a price to be paid in installments; and (b) an agreement by Borrower leasing all or any part of the Mortgaged Property (other than the Leases) or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower’s right, title and interest in and to any Lease or any Rents.

Section 3.07. *Priority of Master Indenture.* In the event that the Master Indenture provides for any covenants or requirements that are inconsistent with the provisions of this Article III, the Master Indenture provisions shall control.

Section 3.08. *Changes in Tax, Debt, Credit and Documentary Stamp Laws.* (a) If any law is enacted or adopted or amended after the date of this Mortgage 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 Indenture Trustee’s interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Indenture Trustee is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Indenture Trustee or unenforceable or provide the basis for a defense of usury then Indenture Trustee shall have the option by written notice of not less than one hundred twenty (120) days to declare the debt immediately due and payable; provided, however, no Make Whole Amount or other prepayment premium shall be due and payable in connection therewith.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the debt for any part of the Taxes 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 Mortgage or the debt. If such claim, credit or deduction shall be required by law, Indenture Trustee shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the debt immediately due and payable; provided, however, no Make Whole Amount or other prepayment premium shall be due and payable in connection therewith.

(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 Notes, this Mortgage, or any of the other Loan Documents or impose any other tax or charge on the same, other than income taxes or other taxes customarily paid by Indenture Trustee, Borrower will pay for the same, and, if timely notified and having not paid the same, with interest and penalties thereon, if any.

ARTICLE IV

POSSESSION, USE AND RELEASE OF THE MORTGAGED PROPERTY

Section 4.01. *Casualty or Condemnation.* Borrower, immediately upon obtaining knowledge of any casualty to any portion of the Mortgaged Property or of any proceeding or negotiation for the taking of all or any portion of the Mortgaged Property in condemnation or other eminent domain proceedings, shall notify Indenture Trustee of such casualty, proceeding or negotiation. Unless Borrower is required under any Lease to restore the Mortgaged Property or pay any Proceeds (defined below) to the lessee under any Lease, any award, compensation or other payment resulting from such casualty or condemnation or eminent domain proceeding, as applicable, shall be applied as set forth in the Master Indenture (the “*Proceeds*”). Notwithstanding anything herein or in the Master Indenture to the contrary, if Borrower is required under the terms of any Lease to restore the Mortgaged Property or pay any Proceeds to the lessee under any Lease, the Proceeds shall be applied as provided in such Lease.

(a) *Casualty.* In the event of any damage to or destruction of the Mortgaged Property or any part thereof, Borrower will promptly give written notice to Indenture Trustee, generally describing the nature and extent of such damage or destruction. No damage to or destruction of the Mortgaged Property shall relieve Borrower of its obligation to pay any monetary sum due under the Loan Documents at the time and in the manner provided in the Loan

Documents. In the event of any damage to or destruction of the Mortgaged Property or any part thereof, Borrower, whether or not the Proceeds, if any, on account of such damage or destruction shall be sufficient for the purpose, at its expense, shall promptly cause the Restoration to be commenced and completed.

(b) *Condemnation.* In case of a taking of all or any part of the Mortgaged Property or the commencement of any proceedings or negotiations which would reasonably likely result in a taking, for any public or quasi-public purpose by any lawful power or authority by exercise of the right of condemnation or eminent domain or by agreement between Indenture Trustee, Borrower and those authorized to exercise such right ("*Taking*"), Borrower will promptly give written notice thereof to Indenture Trustee, generally describing the nature and extent of such Taking.

Section 4.02. *Conveyance in Anticipation of Condemnation, Granting of Easements, Etc.* If no Event of Default shall have occurred and be continuing, and subject to the restrictions set forth in the Master Indenture and the Property Management Agreement, Borrower may, from time to time with respect to its interest in the Mortgaged Property, and with Indenture Trustee's prior written consent, (i) sell, assign, convey or otherwise transfer any interest therein to any person legally empowered to take such interest under the power of eminent domain, (ii) grant easements and other rights in the nature of easements (other than Permitted Encumbrances, which, for the avoidance of doubt, shall not require the consent of Indenture Trustee), (iii) release existing easements or other rights in the nature of easements which are for the benefit of the Mortgaged Property, (iv) dedicate or transfer unimproved portions of the Mortgaged Property for road, highway or other public purposes, (v) execute petitions to have the Mortgaged Property annexed to any municipal corporation or utility district, and (vi) execute and deliver to any person any instrument appropriate to confirm or effect such grants, releases, dedications and transfers.

Section 4.03. *Priority of Master Indenture.* In the event that the Master Indenture provides for any covenants or requirements that are inconsistent with the provisions of this Article IV, the Master Indenture provisions shall control.

Section 4.04. *Release of Property.* Borrower shall not be entitled to a release of any portion of the Personal Property and Mortgaged Property from the lien of this Mortgage except in accordance with the Master Indenture and the Property Management Agreement.

ARTICLE V

SECURITY INTEREST

Section 5.01. *Security Agreement.* With respect to the Personal Property or any portion of the Mortgaged Property which constitutes fixtures or other property governed by the UCC, this Mortgage shall constitute a security agreement between Borrower, as the debtor, and Indenture Trustee, as the secured party, and Borrower hereby grants to Indenture Trustee a security interest in such portion of the Mortgaged Property. Cumulative of all other rights of Indenture Trustee hereunder, Indenture Trustee shall have all of the rights conferred upon secured parties by the UCC. Borrower authorizes Indenture Trustee to file financing statements with respect to the security interest of Indenture Trustee, continuation statements with respect thereto, and any amendments to such financing statements which may be allowed pursuant to the Loan Documents. Furthermore, at any time, and from time to time, Borrower will execute and deliver to Indenture Trustee all financing statements that may from time to time be required by Indenture Trustee to establish and maintain the validity and priority of the security interest of Indenture Trustee, or any modification thereof. Indenture Trustee may exercise any or all of the remedies of a secured party available to it under the UCC with respect to such property. If, upon the occurrence and during the continuance of an Event of Default, Indenture Trustee proceeds to dispose of such property in accordance with the provisions of the UCC, 10 days' notice by Indenture Trustee to Borrower shall be deemed to be reasonable notice under any provision of the UCC requiring such notice; provided, however, that Indenture Trustee may at its option dispose of such property in accordance with Indenture Trustee's rights and remedies with respect to the real property pursuant to the provisions of this Mortgage, in lieu of proceeding under the UCC. Borrower represents that its exact legal name and state of formation or organization are as set forth in the first paragraph of this Mortgage. Borrower agrees that, notwithstanding any provision in the UCC to the contrary, Borrower shall not file a termination statement of any financing statement filed by Indenture Trustee in connection with any security interest granted under this Mortgage if Indenture Trustee reasonably objects to the filing of such termination statement.

Section 5.02. *Effective as a Financing Statement and Fixture Filing.* This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Mortgaged Property and is to be filed for record in the real estate records of each county where any part of the Mortgaged Property (including said fixtures) is situated. This Mortgage shall also be effective as a financing statement covering any other portion of the Mortgaged Property and may be filed in any other appropriate filing or recording office. The mailing address of Borrower is the address of Borrower set forth in the introductory paragraph of this Mortgage, and the address of Indenture Trustee from which information concerning the security interests hereunder may be obtained is the address of Indenture Trustee as set forth in the introductory paragraph of this Mortgage. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Section.

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES

Section 6.01. *Events of Default.* An Event of Default (as defined in the Master Indenture) shall be deemed an Event of Default hereunder.

Section 6.02. *Remedies.* Upon the occurrence and during the continuance of an Event of Default, Indenture Trustee may declare all or any part of the Obligations to be due and payable, and the same shall thereupon become due and payable without any presentment, demand, protest or notice (including notice of intent to accelerate and notice of acceleration) of any kind except as otherwise expressly provided herein. Furthermore, upon the occurrence and during the continuance of an Event of Default, Indenture Trustee may:

(i) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Property or any part thereof and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Mortgaged Property, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Mortgaged Property, take any action described herein, sue for or otherwise collect the Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorneys' fees, upon any Obligations, all in such order as Indenture Trustee may determine. The entering upon and taking possession of the Mortgaged Property, the taking of any action described herein, the collection of such Rents, and the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of default or invalidate any act done in response to such Event of Default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Mortgaged Property or the collection, receipt and application of Rents, Indenture Trustee or its designee shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon any Event of Default;

(ii) Commence an action to foreclose this Mortgage in a single parcel or in several parcels, appoint a receiver or specifically enforce any of the covenants hereof;

(iii) Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code as adopted in the State ("UCC"), including, without limitation:

(1) Either personally or by means of a court appointed receiver, commissioner or other officer, take possession of all or any of the Personal Property and exclude therefrom Borrower and all others claiming under Borrower, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Borrower in respect of the Personal Property or any part thereof. In the event Indenture Trustee demands or attempts to take possession of the Personal Property in the exercise of any rights under any of the Loan Documents, Borrower promises and agrees to promptly turn over and deliver complete possession thereof to Indenture Trustee;

(2) Without notice to or demand upon Borrower, make such payments and do such acts as Indenture Trustee may deem necessary to protect its security interest in the Personal Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance,

charge or lien which is prior to or superior to the security interest granted hereunder and, in exercising any such powers or authority, to pay all expenses incurred in connection therewith;

(3) Require Borrower to assemble the Personal Property or any portion thereof, at the Mortgaged Property, and promptly to deliver such Personal Property to Indenture Trustee, or an agent or representative designated by it. Indenture Trustee, and its agents and representatives, shall have the right to enter upon any or all of Borrower's premises and property to exercise Indenture Trustee's rights hereunder;

(4) Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Indenture Trustee may determine. Indenture Trustee may be a purchaser at any such sale;

(5) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Indenture Trustee shall give Borrower at least 10 days' prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof. Such notice may be delivered to Borrower at the address set forth at the beginning of this Mortgage and shall be deemed to be given as provided herein; and

(6) Any sale made pursuant to the provisions of this subsection shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with the sale of all or a portion of the other Mortgaged Property under power of sale as provided herein upon giving the same notice with respect to the sale of the Personal Property hereunder as is required for such sale of the other Mortgaged Property under power of sale, and such sale shall be deemed to be pursuant to a security agreement covering both real and personal property under the UCC;

(iv) Sell Borrower's interest in the Mortgaged Property pursuant to the power of sale herein conferred. If Indenture Trustee elects to sell Borrower's interest in the Mortgaged Property by exercise of such power of sale, Indenture Trustee shall cause such sale to be performed in the manner then required by law.

(v) Indenture Trustee shall cause to be recorded, published and delivered such notices of default and notices of sale as may then be required by law and by this Mortgage. Indenture Trustee shall, without demand on Borrower, after such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell Borrower's interest in the Mortgaged Property at the time and place of sale fixed by Indenture Trustee, either as a whole, or in separate lots or parcels or items as Indenture Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale, or as otherwise may then be required by law. Indenture Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Borrower or Indenture Trustee, may purchase at such sale. Indenture Trustee may sell not only the real property but also the Personal Property and other interests which are a part of the Mortgaged Property, or any part thereof, as a unit and as a part of a single sale, or may sell any part of the Mortgaged Property separately from the remainder of the Mortgaged Property. Indenture Trustee shall not be required to take possession of any part of the Mortgaged Property or to have any of the Personal Property present at any sale of the Mortgaged Property. Indenture Trustee may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Indenture Trustee, including the posting of notices and the conduct of sale, but in the name and on behalf of Indenture Trustee. In the event any sale hereunder is not completed or is defective in the opinion of Indenture Trustee, such sale shall not exhaust the power of sale hereunder, and Indenture Trustee shall have the right to cause a subsequent sale or sales to be made hereunder until all of the Mortgaged Property has been lawfully sold.

(vi) As may be permitted by law, Indenture Trustee shall apply the proceeds of sale (i) first, to payment of all costs, fees and expenses, including reasonable attorneys' fees and expenses incurred by

Indenture Trustee in exercising the power of sale or foreclosing this Mortgage, (ii) second, to the payment of the Obligations (including, without limitation, the principal, accrued interest and other sums due and owing under the Note and the amounts due and owing to Indenture Trustee under this Mortgage, (including any Make Whole Amount and Post-ARD Additional Interest, each as defined in the Master Indenture) in such manner and order as Indenture Trustee may elect, and (iii) third, the remainder, if any, shall be paid to Borrower, or to Borrower's heirs, devisees, representatives, successors or assigns, or such other persons as may be entitled thereto.

(vii) Indenture Trustee may in the manner provided by law postpone sale of all or any portion of the Mortgaged Property.

Section 6.03. *Appointment of Receiver.* If an Event of Default shall have occurred and be continuing, Indenture Trustee, as a matter of right and without notice to Borrower or anyone claiming under Borrower, Borrower hereby waiving any right to a hearing or notice of hearing prior to the appointment of a receiver, and without regard to any showing of insolvency, fraud or mismanagement and without regard to the then sufficiency of the security for the payment of the Obligations and without notice to Borrower and without any showing of insolvency, fraud or mismanagement on the part of Borrower, and without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, shall be entitled to the appointment of a receiver or receivers of the Mortgaged Property or any part thereof, and of the income, rents, issues and profits thereof, and Borrower hereby irrevocably consents to the appointment of a receiver or receivers. Any receivers appointed pursuant to the provisions of this subsection shall have the usual powers and duties of receivers in such matters. To the extent permitted by applicable law, Borrower or the then-owner of the Mortgaged Property, may seek the appointment of a receiver for the Mortgaged Property upon *ex parte* application to any court of the competent jurisdiction. Such receiver shall be empowered (a) to take possession of the Mortgaged Property and any businesses conducted by Borrower thereon and any business assets used in connection therewith, (b) to exclude Borrower and Borrower's agents, servants and employees from the Mortgaged Property, or, at the option of the receiver, in lieu of such exclusion, to collect a fair market rental from any such persons occupying any part of the Mortgaged Property, (c) to collect the Rents, (d) to complete any construction that may be in progress, (e) to continue the development, marketing and sale of the Mortgaged Property, (f) to do such maintenance and make such repairs and alterations as the receiver deems necessary, (g) to use all stores of materials, supplies and maintenance equipment on the Mortgaged Property and replace such items at the expense of the receivership estate, (h) to pay all taxes and assessments against the Mortgaged Property, all premiums for insurance thereon, all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance, (i) to request that Indenture Trustee advance such funds as may reasonably be necessary to the effective exercise of the receiver's powers, on such terms as may be agreed upon by the receiver and Indenture Trustee, but not in excess of the applicable Note Rate (including any default rate), and (j) generally to do anything that Borrower could legally do if Borrower were in possession of the Mortgaged Property. All expenses incurred by the receiver or his agents, including obligations to repay funds borrowed by the receiver, shall constitute a part of the Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including reasonable attorneys' fees incurred by the receiver and by Indenture Trustee, together with interest thereon at the highest rate of interest applicable in the Note from the date incurred until repaid, and the balance shall be applied toward the Obligations or in such other manner as the court may direct.

Section 6.04. *Remedies Not Exclusive.* Indenture Trustee shall be entitled to enforce payment and performance of any Obligations and to exercise all rights and powers under this Mortgage or under the Loan Documents or other agreement or any laws now or hereafter in force, notwithstanding some or all of the Obligations may now or hereafter be otherwise secured, whether by mortgage, Mortgage, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Indenture Trustee's right to realize upon or enforce any other security now or hereafter held by Indenture Trustee, it being agreed that Indenture Trustee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Indenture Trustee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to Indenture Trustee is intended to be exclusive of any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Indenture Trustee, or to which Indenture Trustee may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Indenture Trustee. Indenture Trustee may pursue inconsistent remedies.

The acceptance by Indenture Trustee of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured or to declare a subsequent Event of Default as herein provided. The acceptance by Indenture Trustee of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Borrower to pay the entire sum then due, and failure of Borrower to pay such entire sum then due shall be an Event of Default, notwithstanding such acceptance of such amount on account, as aforesaid. Indenture Trustee shall be, at all times thereafter and until the entire sum then due as contemplated by the Loan Documents shall have been paid, and notwithstanding the acceptance by Indenture Trustee thereafter of further sums on account, or otherwise, entitled to exercise all rights in this instrument conferred upon them or either of them, and the right to proceed with a sale under any notice of default, or an election to sell, or the right to exercise any other rights or remedies hereunder, shall in no way be impaired, whether any of such amounts are received prior or subsequent to such proceeding, election or exercise. Consent by Indenture Trustee to any action or inaction of Borrower which is subject to consent or approval of Indenture Trustee hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions or inactions.

Section 6.05. *Possession of Mortgaged Property.* In the event of a trustee's sale or foreclosure sale hereunder and after the time of such sale, Borrower occupies the portion of the Mortgaged Property so sold, or any part thereof, Borrower shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of either tenant or landlord, at a reasonable rental per day based upon the value of the portion of the Mortgaged Property so occupied, such rental to be due and payable daily to the purchaser. An action of unlawful detainer shall lie if the tenant holds over after a demand in writing for possession of such Mortgaged Property; and this Mortgage and a trustee's or sheriff's deed shall constitute a lease and agreement under which the tenant's possession arose and continued. Nothing contained in this Mortgage shall be construed to constitute Indenture Trustee as a "mortgagee in possession" in the absence of its taking actual possession of the Mortgaged Property pursuant to the powers granted herein.

Section 6.06. *Waiver of Rights.* To the extent permitted by applicable law, Borrower waives the benefit of all laws now existing or that hereafter may be enacted (i) providing for any appraisal before sale of any portion of the Mortgaged Property, or (ii) in any way extending the time for the enforcement of the collection of the Obligations or creating or extending a period of redemption from any sale made in collecting the Obligations. Borrower agrees that Borrower will not at any time insist upon, plea, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension, redemption or homestead exemption, and Borrower, for Borrower, Borrower's representatives, successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, homestead exemption, notice of election to mature or declare due the whole of the Obligations and marshaling in the event of foreclosure of the liens hereby created. If any law referred to in this Section and now in force, of which Borrower, Borrower's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section. To the extent permitted by applicable law, Borrower expressly waives and relinquishes any and all rights, remedies and defenses that Borrower may have or be able to assert by reason of the laws of the State pertaining to the rights, remedies and defenses of sureties.

If an Event of Default shall have occurred and be continuing, Borrower hereby irrevocably and unconditionally waives and releases (i) all benefits that might accrue to Borrower by virtue of any present or future law exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any appraisal, valuation, state of execution, exemption from civil process, redemption, or extension of time for payment; and (ii) any right to a marshaling or assets or a sale in inverse order of alienation.

Section 6.07. *Assignment of Rents and Leases.* (a) Borrower hereby assigns, transfers, conveys and sets over to Indenture Trustee all of Borrower's estate, right, title and interest in, to and under the Leases, whether existing on the date hereof or hereafter entered into, together with any changes, extensions, revisions or modifications thereof and all rights, powers, privileges, options and other benefits of Borrower as the lessor under the Leases regarding the current tenants and any future tenants, and all the Rents from the Leases, including those now due, past due or to become due. Borrower irrevocably appoints Indenture Trustee its true and lawful attorney-in-fact, at the option of Indenture Trustee, at any time and from time to time upon the occurrence and during the continuance of an Event of Default, to take possession and control of the Mortgaged Property, pursuant to Borrower's rights under the Leases, to exercise any of

Borrower's rights under the Leases, and to demand, receive and enforce payment, to give receipts, releases and satisfaction and to sue, in the name of Borrower or Indenture Trustee, for all of the Rents. The power of attorney granted hereby shall be irrevocable and coupled with an interest and shall terminate only upon the payment of all sums due Indenture Trustee for all losses, costs, damages, fees and expenses whatsoever associated with the exercise of this power of attorney, and Borrower hereby releases Indenture Trustee from all liability (other than as a result of the gross negligence or willful misconduct of Indenture Trustee) whatsoever for the exercise of the foregoing power of attorney and all actions taken pursuant thereto. The consideration received by Borrower to execute and deliver this assignment and the liens and security interests created herein is legally sufficient and will provide a direct economic benefit to Borrower. It is intended by Borrower and Indenture Trustee that the assignment set forth herein constitutes an absolute assignment and not merely an assignment for additional security. Notwithstanding the foregoing, this assignment shall not be construed to bind Indenture Trustee to the performance of any of the covenants, conditions or provisions of Borrower contained in the Leases or otherwise to impose any obligation upon Indenture Trustee, and, so long as no Event of Default shall have occurred and be continuing, Borrower shall have a license, revocable upon an Event of Default, to possess and control the Mortgaged Property and collect and receive all Rents. Upon an Event of Default, such license shall be automatically revoked.

(b) Upon the occurrence and during the continuance of an Event of Default, Indenture Trustee may, at any time without notice (except if required by applicable law), either in person, by agent or by a court-appointed receiver, regardless of the adequacy of Indenture Trustee's security, and at its sole election (without any obligation to do so), enter upon and take possession and control of the Mortgaged Property, or any part thereof, to perform all acts necessary and appropriate to operate and maintain the Mortgaged Property, including, but not limited to, execute, cancel or modify the Leases, make repairs to the Mortgaged Property, execute or terminate contracts providing for the management or maintenance of the Mortgaged Property, all on such terms as are deemed best to protect the security of this assignment, and in Indenture Trustee's or Borrower's name, sue for or otherwise collect such Rents as specified in this Mortgage as the same become due and payable, including, but not limited to, Rents then due and unpaid. Indenture Trustee may so sue for or otherwise collect such Rents with or without taking possession of the Mortgaged Property.

(c) Rents collected subsequent to any Event of Default shall be applied at the direction of, and in such order as determined by, Indenture Trustee to the costs, if any, of taking possession and control of and managing the Mortgaged Property and collecting such amounts, including, but not limited to, reasonable attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Mortgaged Property, premiums on insurance policies, taxes, assessments and other charges on the Mortgaged Property, and the costs of discharging any obligation or liability of Borrower with respect to the Leases and to the sums secured by this Mortgage. During the continuance of an Event of Default, Indenture Trustee or the receiver shall have access to the books and records used in the operation and maintenance of the Mortgaged Property and shall be liable to account only for those Rents actually received.

(d) Indenture Trustee shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Mortgaged Property by reason of anything done or left undone by Indenture Trustee hereunder, except to the extent of Indenture Trustee's gross negligence or willful misconduct.

(e) Any entering upon and taking possession and control of the Mortgaged Property by Indenture Trustee or the receiver and any application of Rents as provided herein shall not cure or waive any Event of Default hereunder or invalidate any other right or remedy of Indenture Trustee under applicable law or provided therein.

Section 6.08. *Right of Entry.* Upon reasonable notice to Borrower, Indenture Trustee and its agents shall have the right to enter and inspect the Mortgaged Property and Personal Property at all reasonable times, subject to the rights of tenants under Leases.

Section 6.09. *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 Mortgaged Property and Personal Property, then, to the extent of the funds so used, Indenture Trustee shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Mortgaged Property and Personal 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 Indenture Trustee and are merged with the lien and security interest created herein as cumulative security for the repayment of the indebtedness, the performance and discharge of the Obligations.

Section 6.10. *Marshalling and Other Matters.* Borrower hereby waives, to the extent permitted by law, the benefit of all applicable law now or hereafter in force regarding appraisal, valuation, stay, extension, reinstatement and redemption and all rights of marshalling in the event of any sale hereunder of the Mortgaged Property and Personal Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Borrower, and on behalf of each and every Person acquiring any interest in or title to the Mortgaged Property and Personal Property subsequent to the date of this Mortgage and on behalf of all Persons to the extent permitted by applicable law.

Section 6.11. *Waiver of Foreclosure Defense.* Borrower hereby waives any defense Borrower might assert or have by reason of Indenture Trustee's failure to make any tenant or lessee of the Mortgaged Property and Personal Property a party defendant in any foreclosure proceeding or action instituted by Indenture Trustee.

Section 6.12. *Due on Sale/Encumbrance.* Borrower expressly agrees that upon a violation of Section 3.06 of this Mortgage by Borrower and acceleration of the principal balance of the Notes because of such violation, Borrower will pay all sums required to be paid in connection with a prepayment, if any, as described in the Notes, herein imposed on prepayment after an Event of Default and acceleration of the principal balance. Borrower expressly acknowledges that Borrower has received adequate consideration for the foregoing agreement.

ARTICLE VII

MISCELLANEOUS

Section 7.01. *Satisfaction.* If and when the Obligations shall have become due and payable (whether by lapse of time or by acceleration or by the exercise of the privilege of prepayment), and Borrower shall pay or cause to be paid all Obligations and all other sums payable by Borrower with respect to the Obligations, then this Mortgage shall be void (otherwise it shall remain in full force and effect in law and equity forever) and Indenture Trustee agrees to execute an instrument evidencing the satisfaction of all obligations under this Mortgage and releasing this Mortgage which shall be prepared and recorded at Borrower's sole expense.

Section 7.02. *Further Acts, Etc.* Borrower will, at the cost of Borrower, and without expense to Indenture Trustee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as shall be required from time to time, for the better assuring, conveying, assigning, transferring, and confirming unto Indenture Trustee the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Indenture Trustee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage, or for complying with all legal requirements. Borrower will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Indenture Trustee to execute and file or record in the name of Borrower or without the signature of Borrower to the extent Indenture Trustee may lawfully do so, one or more financing statements to evidence more effectively the security interest of Indenture Trustee in the Property. After the occurrence and during the continuance of an Event of Default, Borrower grants to Indenture Trustee or its designee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Indenture Trustee or its designee at law and in equity, including without limitation, such rights and remedies available to Indenture Trustee or its designee pursuant to this Section 7.02.

Section 7.03. *Limitation of Rights of Others.* Nothing in this Mortgage is intended or shall be construed to give to any person, other than Borrower and the holder of the Note, any legal or equitable right, remedy or claim under or in respect of this Mortgage or any covenant, condition or provision herein contained.

Section 7.04. *Severability.* In case any one or more of the provisions contained herein or in the Note shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any

other provision hereof, and this Mortgage shall be construed as if such provision had never been contained herein or therein.

Section 7.05. *Notices; Amendments; Waiver.* All notices, demands, designations, certificates, requests, offers, consents, approvals, appointments and other instruments given pursuant to this Mortgage (collectively called “*Notices*”) shall be in writing and given by (i) hand delivery, (ii) email, (iii) express overnight delivery service or (iv) certified or registered mail, return receipt requested and shall be deemed to have been delivered upon (a) receipt, if hand delivered, (b) machine confirmation, if delivered by email, (c) the next Business Day, if delivered by express overnight delivery service, or (d) the fifth Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested. Notices shall be provided to the parties and addresses (or facsimile numbers, as applicable) specified below:

If to Indenture Trustee: Citibank, N.A.
388 Greenwich Street
New York, New York 10013
Attention: Citibank Agency & Trust – SVC 2023-1
Telephone: 714-845-4113
Email: anthony.bausa@citi.com

If to Mortgagor: SVC ABS LLC
Two Newton Place
255 Washington Street, Suite 300
Newton, Massachusetts 02458
Attention: Brian Donley
Telephone: 617-964-8389
Email: bdonley@rmrgroup.com

with a copy to: Sullivan & Worcester LLP
Attention: Louis A. Monti, Esq.
One Post Office Square
Boston, MA 02109
Telephone: 617-338-2476
Email: lmonti@sullivanlaw.com

or to such other address or such other person as either party may from time to time hereafter specify to the other party in a notice delivered in the manner provided above. Whenever in this Mortgage the giving of Notice is required, the giving thereof may be waived in writing at any time by the person or persons entitled to receive such Notice. Except as in this Mortgage otherwise expressly provided, (i) this Mortgage may not be modified except by an instrument in writing executed by Borrower and Indenture Trustee and (ii) no requirement hereof may be waived at any time except by a writing signed by the party against whom such waiver is sought to be enforced, nor shall any waiver be deemed a waiver of any subsequent breach or default.

Section 7.06. *Successors and Assigns; Successor to Indenture Trustee.* All of the provisions herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, to the same extent as if each such successor and assign were in each case named as a party to this Mortgage. Wherever used, the singular shall include the plural, the plural shall include the singular and the use of any gender shall include all genders. In the event that Indenture Trustee is replaced, substituted or removed under the terms of the Master Indenture, the party to whom Indenture Trustee transfers such collateral agency obligations (including, without limitation, any successor indenture trustee, trustee or agent) shall automatically (and without record notice) be deemed the successor “*Indenture Trustee*” hereunder and no amendment or assignment of this Mortgage shall be required. In addition, if the Master Indenture is terminated in its entirety and no successor is appointed by Indenture Trustee, then Indenture Trustee shall be deemed Indenture Trustee and no assignment, notice or recorded document shall be required in connection therewith.

Section 7.07. *Headings.* The headings appearing in this Mortgage have been inserted for convenient reference only and shall not modify, define, limit or expand the express provisions of this Mortgage.

Section 7.08. *Time of the Essence.* Time is of the essence in the performance of each and every obligation under this Mortgage.

Section 7.09. *Forum Selection; Jurisdiction; Venue; Choice of Law.* Borrower acknowledges that there are substantial contacts between the parties and the transactions contemplated herein and the State. For purposes of any action or proceeding arising out of this Mortgage, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in the State. Borrower consents that it may be served with any process or paper by registered mail or by personal service within or without the State in accordance with applicable law. Furthermore, Borrower waives and agrees not to assert in any such action, suit or proceeding that it is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. Matters relating to the creation, perfection and priority of, and procedures relating to the enforcement of the liens and security interests created pursuant to, this Mortgage shall be governed by and construed in accordance with the internal laws of the State without regard to its principles of conflicts of law. With respect to other provisions of this Mortgage, this Mortgage shall be governed by the internal laws of the State of New York, without regard to its principles of conflicts of law. Nothing in this Section shall limit or restrict the right of Indenture Trustee to commence any proceeding in the federal or state courts located in the State to the extent Indenture Trustee deems such proceeding necessary or advisable to exercise remedies available under the Mortgage or the other Loan Documents.

Section 7.10. *Indemnification.* Borrower shall indemnify and hold harmless each of the Indemnified Parties for, from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement and damages of whatever kind or nature (including, without limitation, reasonable attorneys' fees, court costs and other costs of defense including reasonable attorney's fees and expenses relating to the enforcement of such indemnity) (collectively, "*Losses*") (excluding Losses suffered by an Indemnified Party arising out of such Indemnified Party's gross negligence or willful misconduct; provided, however, that the term "gross negligence" shall not include gross negligence imputed as a matter of law to any of the Indemnified Parties solely by reason of Borrower's interest in the Mortgaged Property or Borrower's failure to act in respect of matters which are or were the obligation of Borrower under the Loan Documents) caused by, incurred or resulting from Borrower's operations of, or relating in any manner to, the Mortgaged Property, whether relating to its original design or construction, latent defects, alteration, maintenance, use by Borrower or any person thereon, supervision or otherwise, or from any breach of, default under or failure to perform any term or provision of this Mortgage by Borrower, its officers, employees, agents or other persons. It is expressly understood and agreed that Borrower's obligations under this Section shall survive the expiration or earlier termination of this Mortgage for any reason.

Section 7.11. *Indenture Trustee not Responsible for Recitals.* Indenture Trustee assumes no responsibility for the correctness of the recitals contained herein and shall not be responsible or accountable in any way whatsoever for or with respect to the validity, execution or sufficiency of this Mortgage and makes no representation with respect thereto. Any action or inaction of Indenture Trustee shall only be done in accordance with the terms and conditions of the Master Indenture and Indenture Trustee shall in no way whatsoever be responsible or liable for any action or failure to act hereunder absent Indenture Trustee's gross negligence, willful misconduct or bad faith. In entering into this Mortgage, Indenture Trustee shall be entitled to the benefit of every provision of the Master Indenture relating to the conduct of or affecting the liability of or affording protection to Indenture Trustee.

Section 7.12. *Waiver of Jury Trial and Punitive, Consequential, Special and Indirect Damages.* INDENTURE TRUSTEE, BY ACCEPTING THIS MORTGAGE, AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR ITS SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS MORTGAGE, THE RELATIONSHIP OF INDENTURE TRUSTEE AND BORROWER, BORROWER'S USE OR OCCUPANCY OF THE MORTGAGED PROPERTY, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. THIS WAIVER BY THE PARTIES HERETO OF ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN. FURTHERMORE, BORROWER AND INDENTURE TRUSTEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO

SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES FROM THE OTHER AND ANY OF THE OTHER'S AFFILIATES, OFFICERS, DIRECTORS, MANAGERS, MEMBERS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER OR ANY OF THE OTHER'S AFFILIATES, OFFICERS, DIRECTORS, MANAGERS, MEMBERS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS MORTGAGE OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO. THE WAIVER BY BORROWER AND INDENTURE TRUSTEE OF ANY RIGHT THEY MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES HAS BEEN NEGOTIATED BY THE PARTIES HERETO AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

Section 7.13. *Entire Agreement.* THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Section 7.14. *State Specific Provisions.* State specific provisions, if any, are outlined on Exhibit B attached hereto and incorporated herein. In the event of any inconsistencies between the terms and conditions of Exhibit B and the other provisions of this Mortgage, the terms and conditions of Exhibit B shall control and be binding.

[Remainder of page intentionally left blank; signature page to follow]

IN WITNESS WHEREOF, Borrower has executed and delivered this Mortgage as of the day and year first above written.

BORROWER:

SVC ABS LLC

By: _____

Todd W. Hargreaves
President and Chief Investment Officer

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

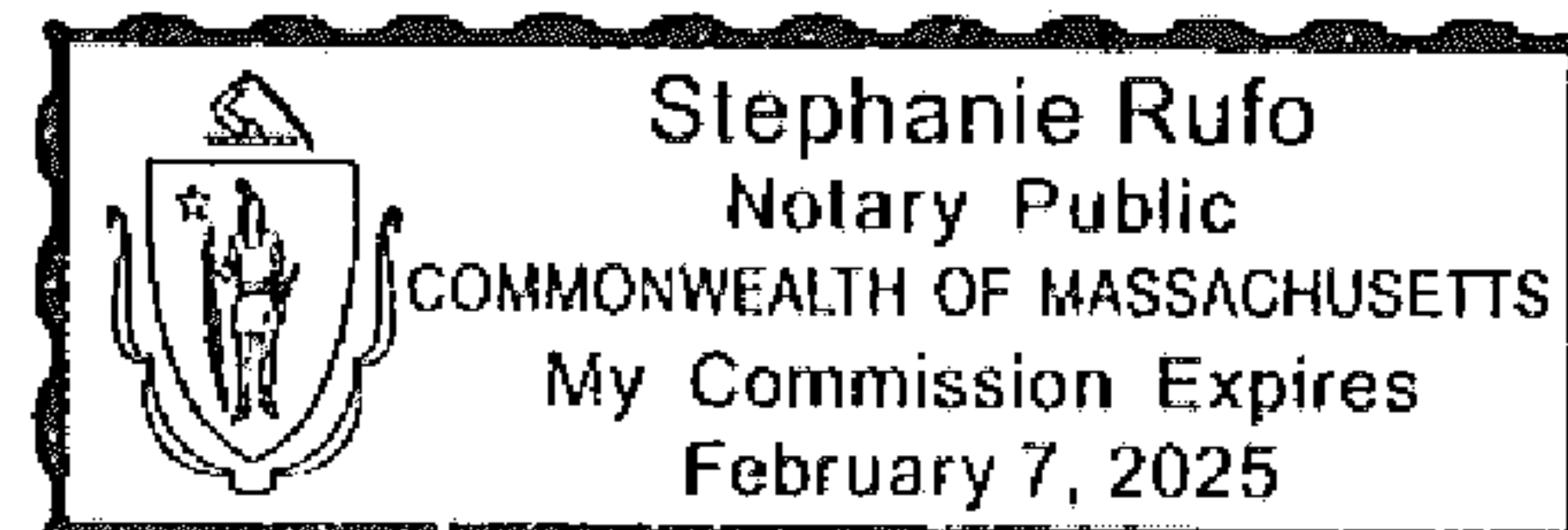
On this 6th day of February, 2023, before me, the undersigned notary public, personally appeared Todd W. Hargreaves, proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as President and Chief Investment Officer of SVC ABS LLC, a Delaware limited liability company, as the voluntary act of said limited liability company.

Stephanie Rufo

Print Name: STEPHANIE RUFO
Notary Public

My Commission Expires: 2/7/2025

[AFFIX OR IMPRINT OFFICIAL SEAL]



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EXHIBIT A

LEGAL DESCRIPTION OF LAND

136 First Street North, Alabaster, Shelby, AL

Lots 3, 4, 5, 6, 7 and the South half of Lot 8, Block 2, according to Nickerson-Scott Survey as recorded in Map Book 3, Page 34, in the Probate Office of Shelby County, Alabama.

EXHIBIT B

STATE SPECIFIC PROVISIONS

This Mortgage secures advances up to the maximum of \$610,200,000.00 indebtedness outstanding at any time, plus accrued and unpaid interest.

The following provision is inserted in lieu of Section 6.02(v):

Upon the occurrence and during the continuance of an Event of Default, this Mortgage may be foreclosed through exercise of the power of sale as to the Mortgaged Property, or any part thereof, located in the State of Alabama in the manner permitted by Alabama law. More specifically, if an Event of Default shall have occurred, this Mortgage may be foreclosed as now provided by law in the case of past-due mortgages; and the Indenture Trustee shall be authorized, and, after giving notice of the time, place and terms of sale by publication once a week for three consecutive weeks in some newspaper published in the county in which the Mortgaged Property or any part thereof is situated, to sell the Mortgaged Property, or any part thereof, in front of the main or front courthouse door of said county, at public outcry, to the highest bidder for cash, and to apply the proceeds of such sale as specified in Section 6.02(vi) below. Mortgagor agrees that the Indenture Trustee may bid at any sale had under the terms of this Mortgage and may purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor, and Indenture Trustee shall have the right to credit upon the amount of the bid made therefor, to the extent necessary to satisfy such bid, the Obligations. At the foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole without first offering it in any other manner or it may be offered for sale and sold in any other manner the Indenture Trustee may elect. The power of sale granted herein is a continuing power and shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all of the Obligations have been satisfied in full. Upon the occurrence and during the continuance of an Event of Default, Indenture Trustee may exercise its rights of enforcement with respect to any portion of the Personal Property located in the State of Alabama under either the power of sale provisions above or under the UCC.

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STATE OF ALABAMA)
 : MORTGAGE PRIVILEGE TAX ORDER
MONTGOMERY COUNTY)

BEFORE THE STATE DEPARTMENT OF REVENUE:

The Petitioner, **SVC ABS LLC**, a Delaware limited liability company, by its attorneys, as mortgagor under that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing executed by the Petitioner in favor of **CITIBANK, N.A.**, as Indenture Trustee ("the Mortgage"), has presented its petition to the State Department of Revenue asking that the Department of Revenue fix and determine the amount of the mortgage privilege tax due on the recording of the Mortgage which embraces and describes property located both within and without the State of Alabama and encompasses property in more than one county in Alabama. Upon consideration of said petition and the evidence offered in support thereof, the State Department of Revenue finds as follows:

1. The total amount of the indebtedness secured by the Mortgage is \$610,200,000.00.
2. The total value of all property embraced and described in the Mortgage, both within and without the State of Alabama, is \$1,016,975,000.00.
3. The value of that part of the property embraced and described in the Mortgage and located within the State of Alabama is \$70,800,000.00, or 6.96% of the total value of the properties located both within and without the State.
4. The total amount of said indebtedness secured which is allocable to the State of Alabama is \$42,469,920.00 (rounded up to \$42,470,000.00).

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5. The amount of mortgage privilege tax, at the rate of \$.15 per \$100 of indebtedness, or fraction thereof, to be paid to the County in which the Mortgage is first recorded is \$63,705.00.

6. The Mortgage is to be recorded in Calhoun, Etowah, Geneva, Jefferson, Lauderdale, Lee, Madison, Morgan and Shelby Counties.

7. The relative property values of the property lying within the State of Alabama by county are as follows:

<u>COUNTY</u>	<u>VALUE</u>	<u>PERCENTAGE</u>
Calhoun	\$2,425,000.00	3.43%
Etowah	\$5,925,000.00	8.37%
Geneva	\$650,000.00	0.92%
Jefferson	\$29,900,000	42.23%
Lauderdale	\$2,375,000.00	3.35%
Lee	\$2,900,000.00	4.10%
Madison	\$19,550,000.00	27.61%
Morgan	\$4,150,000.00	5.86%
Shelby	\$2,925,000.00	4.13%
Total	\$70,800,000.00	100%

IT IS, THEREFORE, ORDERED by the State Department of Revenue that upon the first recording of the Mortgage in the State of Alabama, the Judge of Probate of the County in which the Mortgage is first recorded shall collect the mortgage privilege tax in the amount of \$63,705.00, and pursuant to §40-22-2(7), Code of Alabama 1975, after deducting the probate judge’s 5% commission, shall make distribution of such tax to the State of Alabama and to the

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counties named herein, in the percentages as set out in Paragraph 7. The probate judge of the county wherein the Mortgage will be recorded first also is entitled to collect any applicable recording fees. Upon payment of the mortgage recording tax and upon the initial filing of the Mortgage, copies of the Mortgage shall be acceptable for recordation in the other counties, pursuant to §40-22-2(5), Code of Alabama 1975, without the payment of any further mortgage recording tax. The probate judges of these counties are entitled to collect applicable recording fees, however. §40-22-2(5). Also, the Petitioner is **ORDERED** to abide by the reporting and paying provisions of §40-22-2(2)b, Code of Alabama 1975, concerning any future advances.

DONE this 3rd day of February, 2023.

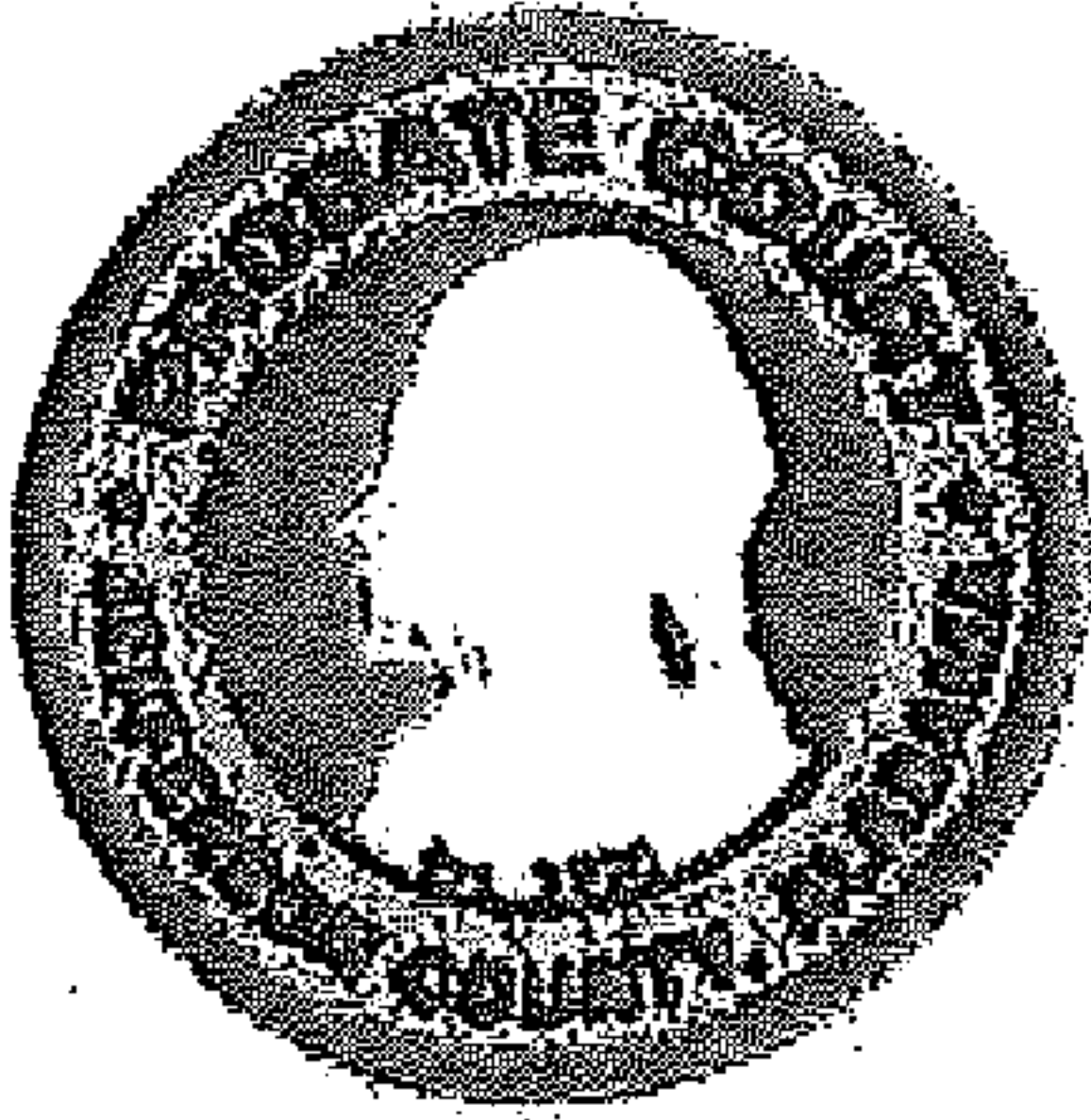
STATE DEPARTMENT OF REVENUE

By: Derrick Coleman
Deputy Commissioner of Revenue

Myra M. Mitchell
Secretary

Approved - Legal Division

By: K. Elizabeth Jehle
K.Elizabeth Jehle



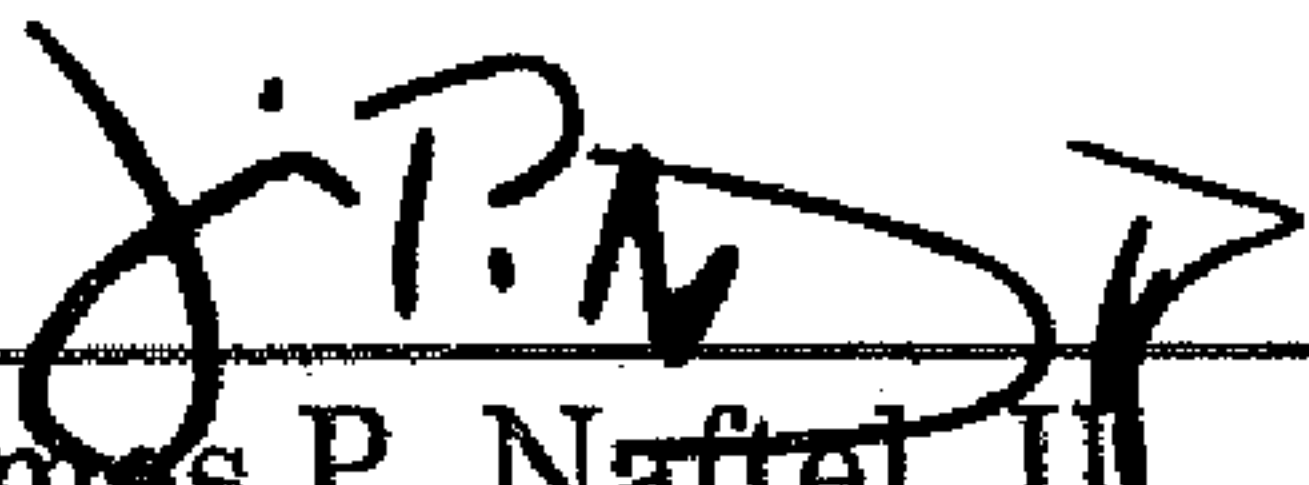
JEFFERSON COUNTY PROBATE COURT
BIRMINGHAM DIVISION

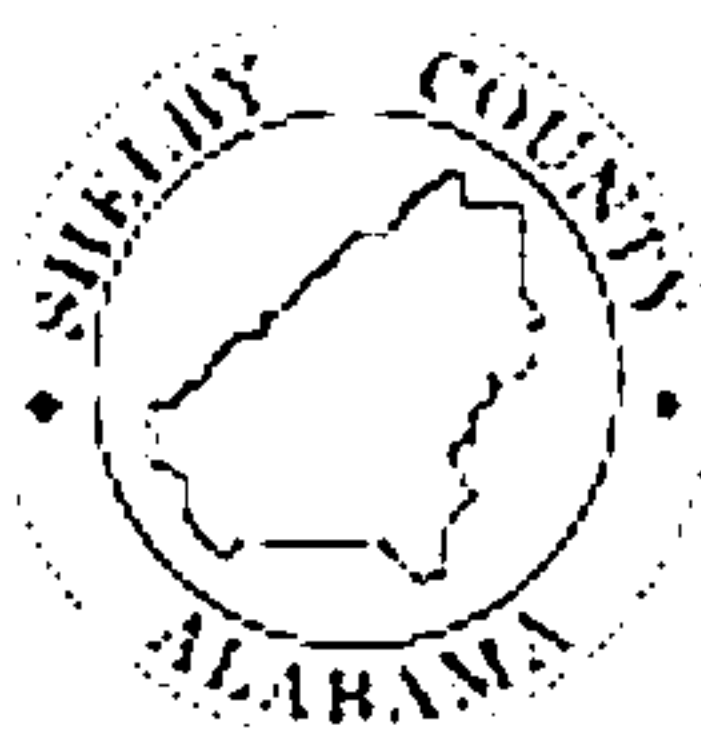
JAMES P. NAFTEL II, PROBATE JUDGE
716 RICHARD ARRINGTON BLVD NORTH
BIRMINGHAM, AL 35203
(205) 325-5411

To: Judge of Probate

Calhoun County

I, James P. Naftel II, Judge of Probate of Jefferson County, Alabama, do hereby certify that on the 3rd day of March, 2023, this office collected a total tax of \$ 63,705⁰⁰ on a mortgage/deed from SVC ABS LLC to Citibank NA, and recorded as Instrument No. 2023019975. If you have questions or need additional information, please do not hesitate to contact my office.


James P. Naftel, II
Judge of Probate



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
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\$92.00 JOANN
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Allie S. Bayl