

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 8-K
CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):

January 6, 2017

Hines Global REIT II, Inc.

(Exact name of registrant as specified in its charter)

Commission file number: 000-55599

Maryland

(State or other jurisdiction of incorporation
or organization)

80-0947092

(I.R.S. Employer Identification No.)

2800 Post Oak Boulevard

Suite 5000

Houston, Texas

(Address of principal executive offices)

77056-6118

(Zip code)

(888) 220-6121

(Registrant's telephone number, including area code)

Not Applicable

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry Into a Material Definitive Agreement.

The information discussed under Item 2.03 of this Current Report on Form 8-K is incorporated by reference into this Item 1.01.

Item 2.01 Completion of Acquisition or Disposition of Assets.

On January 6, 2017, Hines Global REIT II, Inc. (“Hines Global II”), through two wholly-owned subsidiaries of its operating partnership, acquired Rookwood Commons and Rookwood Pavilion, two contiguous shopping centers located in Cincinnati, Ohio (collectively referred to as “Rookwood”). CLP-SPF Rookwood Commons, LLC and CLP-SPF Rookwood Pavilion, LLC (collectively referred to as the “Sellers”), are not affiliated with Hines Global II or its affiliates.

Rookwood Pavilion was built in 1993 and Rookwood Commons was built in 2000. Rookwood consists of 600,071 square feet that is, in the aggregate, 97% leased to 73 tenants.

The contract purchase price for Rookwood was \$190.0 million, exclusive of transaction costs and working capital reserves. Hines Global II funded the acquisition using proceeds from its public offering, an advance under its credit facility with Hines Interests Limited Partnership (“Hines”), an affiliate of Hines Global II, and the assumption of two existing secured mortgage facilities from a third party totaling \$96.0 million (see item 2.03 below). The credit facility with Hines was described in Hines Global II’s Current Reports on Form 8-K filed with the Securities and Exchange Commission (“SEC”) on December 19, 2014 and December 16, 2016.

The estimated going-in capitalization rate for Rookwood is approximately 6.0%. The estimated going-in capitalization rate is determined by dividing the projected property revenues in excess of expenses for the first fiscal year by the net purchase price (excluding closing costs and taxes). Property revenues in excess of expenses includes all projected operating revenues (rental income, tenant reimbursements, parking and any other property-related income) less all projected operating expenses (property operating and maintenance expenses, property taxes, insurance and property management fees). The projected property revenues in excess of expenses includes assumptions which may not be indicative of the actual future performance of the property, including the assumption that the current tenants will perform under their lease agreements during the next 12 months and assumptions related to leasing vacant space.

The terms of the acquisition of Rookwood are set forth in the Agreement of Purchase and Sale, dated as of September 16, 2016, by and between the Sellers and HGREIT II Edmonson Road LLC and HGREIT II Madison Road LLC filed as Exhibit 10.28 to Hines Global II’s Post-Effective Amendment No. 10 to Hines Global II’s Registration Statement filed with the SEC on October 5, 2016 and is incorporated by reference herein.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On January 6, 2017, two wholly-owned subsidiaries of Hines Global II’s operating partnership (the “Hines Global II Entities”), entered into two loan assumption and modification agreements (the “Loans”), with Nationwide Life Insurance Company (“Nationwide”) and with each of the Sellers. Pursuant to the Loans, the Hines Global II Entities assumed two secured mortgage facilities with a combined original principal amount of \$96.0 million. Nationwide is not affiliated with Hines Global II or its affiliates. The Loans are secured by first priority liens on Hines Global II’s interest in Rookwood and assignments of all of its leases and rents and the personal property on the premises of Rookwood.

Interest accrued on the unpaid principal balance of the first secured mortgage facility is due and payable on the first day of each month commencing in February 2017. The first secured mortgage facility has a fixed interest rate of 2.87% and matures on July 1, 2020. The first secured mortgage facility may be prepaid in full, subject to certain conditions, including but not limited to providing 30 days’ advance written notice to Nationwide and the payment of a prepayment premium.

Additionally, interest accrued on the unpaid principal balance of the second secured mortgage facility is due and payable on the first day of each month commencing in February 2017. The second secured mortgage facility has a fixed interest rate of 3.13% and matures on July 1, 2020. The second secured mortgage facility may be prepaid in full, subject to certain conditions, including but not limited to providing 30 days’ advance written notice to Nationwide and the payment of a prepayment premium.

The Loans contain various customary events of default, with corresponding grace periods, including, without limitation, payment defaults and bankruptcy-related defaults. In addition, the Loans contain events of default in certain limited circumstances related to the termination of the advisory agreement among Hines Global II, its operating partnership and Hines

Global REIT II Advisors LP. The Loans also contain customary financial and other covenants, including, without limitation, covenants regarding the debt service coverage ratio, failure to maintain a property management agreement, limitations on the incurrence of debt and other customary covenants which are more fully described therein. Upon the occurrence of an event of default under the Loans, Nationwide may declare all sums owed under the Loans immediately due and payable. Hines Global II's liability under the Loans and the related loan documents is limited to Hines Global II's interest in Rookwood, including its leases and rents and the personal property on its premises.

The foregoing descriptions of the Loans do not purport to be complete in scope and are qualified in their entirety by the full text of the Loans and the notes for the two secured mortgage facilities assumed by Hines Global II pursuant to the Loans, which are filed with this Current Report on Form 8-K as Exhibits 10.2, 10.3, 10.4 and Exhibit 10.5, respectively.

Item 7.01 Regulation FD Disclosure.

On January 9, 2017, Hines issued a press release relating to Hines Global II's acquisition of Rookwood. A copy of such press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K. Pursuant to the rules and regulations of the Securities and Exchange Commission, such exhibit and the information set forth therein are deemed to have been furnished and shall not be deemed to be "filed" under the Securities Exchange Act of 1934.

Item 9.01 Financial Statements and Exhibits.

(a) and (b) Financial Statements of Business Acquired and Pro Forma Financial Information.

To be filed by amendment. The registrant hereby undertakes to file the financial statements required to be filed in response to this item on an amendment to this Current Report on Form 8-K no later than March 24, 2017.

(d) Exhibits:

- 10.1 Agreement of Purchase and Sale, dated as of September 16, 2016, by and between CLP-SPF Rookwood Commons, LLC and CLP-SPF Rookwood Pavilion, LLC and HGREIT II Edmonson Road LLC and HGREIT II Madison Road LLC (filed as Exhibit 10.28 to Hines Global II's Post-Effective Amendment No. 10 to the Registration Statement on October 5, 2016 and incorporated by reference herein)
- 10.2 Open End Mortgage and Security Agreement dated as of April 1, 2015 by and between Nationwide Life Insurance Company, as Lender, and CLP-SPF Rookwood Commons, LLC, as Borrower
- 10.3 Open End Mortgage and Security Agreement dated as of July 1, 2013 by and between Nationwide Life Insurance Company, as Lender, and CLP-SPF Rookwood Pavilion, LLC, as Borrower
- 10.4 Assumption and Modification Agreement dated as of January 6, 2017, by and between Nationwide Life Insurance Company, as Lender, CLP-SPF Rookwood Pavilion LLC, as Original Borrower, and HGREIT II Madison Road LLC, as Borrower
- 10.5 Assumption and Modification Agreement dated as of January 6, 2017, by and between Nationwide Life Insurance Company, as Lender, CLP-SPF Rookwood Commons LLC, as Original Borrower, and HGREIT II Edmondson Road LLC, as Borrower
- 99.1 Press Release of Hines, dated January 9, 2017

Statements in this Current Report on Form 8-K, including but not limited to intentions, beliefs, expectations or projections relating to the estimated going-in capitalization rate for the property described herein, are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements are based on current expectations and assumptions with respect to, among other things, tenant performance, future economic, competitive and market conditions and future business decisions that may prove incorrect or inaccurate. Important factors that could cause actual results to differ materially from those in the forward-looking statements include the risks associated with the ability and willingness of the current tenants to continue to make rental payments pursuant to their lease agreements and other risks described in the "Risk Factors" section of Hines Global II's Annual Report on Form 10-K for the year ended December 31, 2015, as updated by its other filings with the SEC. You are cautioned not to place undue reliance on any forward-looking statements.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Hines Global REIT II, Inc.

January 9, 2017

By: /s/ J. Shea Morgenroth
Name: J. Shea Morgenroth
Title: Chief Accounting Officer and Treasurer

Exhibit Index

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Loan No. 00-1102347

OPEN-END MORTGAGE AND SECURITY AGREEMENT

This MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made and executed as of April 1, 2015, by **CLP – SPF ROOKWOOD COMMONS, LLC**, a Delaware limited liability company ("Borrower"), to and in favor of **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation, its successors and assigns ("Lender"), having its principal office at One Nationwide Plaza, Fifth Floor, Columbus, Ohio 43215, Attention: Real Estate Investments, or at such other place as Lender may from time to time designate.

WITNESSETH:

WHEREAS, Borrower is justly indebted to Lender in the original principal sum of \$67,000,000.00 with interest thereon (the "Loan"), which Loan is evidenced and represented by that certain Note of even date herewith (the "Note"), both principal and interest being payable as therein provided, and all amounts remaining unpaid thereon being finally due and payable on July 1, 2020, and the term "Note" shall include all other notes given in substitution, modification, increase, renewal or extension of the original Note described herein, in whole or in part; and

WHEREAS, Lender, as a condition precedent to the extension of credit and the making of the Loan has required that Borrower provide Lender with security for the repayment of the Loan as well as for the performance, observance and discharge by Borrower of various terms, covenants, conditions and agreements made by Borrower to, with, in favor of and for the benefit of Lender with respect to the Loan and such security;

NOW THEREFORE, in consideration of and in order to secure the repayment of the Loan evidenced and represented by the Note, together with interest on the Loan, as well as the payment of all other sums of money secured hereby, as hereinafter provided; to secure the observance, performance and discharge by Borrower of all terms, covenants, conditions and agreements set forth in the Note, this Mortgage and in the other Loan Documents (hereafter defined); in order to charge the properties, interests and rights hereinafter described with such payment, observance, performance and discharge; and in consideration of the sum of One and no/100 Dollars (\$1.00) paid by Lender to Borrower, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by Borrower, Borrower does hereby grant, mortgage, bargain, sell, convey, assign, transfer, pledge, deliver, hypothecate, warrant and confirm unto Lender forever, the following described properties, including all rights, interests, replacements, substitutions and additions thereto, therein or therefor:

- (i) All that certain piece, parcel or tract of land or real property of which Borrower is now seized and in actual or constructive possession, situated in the City of Norwood, County of Hamilton,

and State of Ohio (the "State"), and being more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the "Real Property");

(ii) All buildings, structures and other improvements of any kind, nature or description now or hereafter erected, constructed, placed or located upon the Real Property (the "Improvements"), including, without limitation, any and all additions to, substitutions for or replacements of such Improvements;

(iii) All minerals, royalties, gas rights, water, water rights, water stock, flowers, shrubs, lawn plants, crops, trees, timber and other emblements now or hereafter located on, under or above all or any part of the Real Property;

(iv) All and singular, the tenements, hereditaments, strips and gores, rights-of-way, easements, privileges, profits and other appurtenances now or hereafter belonging or in any way appertaining to the Real Property, including, without limitation, all right, title and interest of Borrower in any after-acquired right, title, interest, remainder or reversion in and to the beds of any ways, streets, avenues, roads, alleys, passages and public places, open or proposed, in front of, running through, adjoining or adjacent to the Real Property (the "Appurtenances");

(v) Any and all leases, licenses, contracts, rents, license fees, royalties, issues, revenues, profits, proceeds, deposits, income and other benefits, including accounts receivable, termination fees, of, accruing to or derived from the Real Property, Improvements and Appurtenances, and any business or enterprise presently situated or hereafter operated thereon and therewith and all of Borrower's interest under any and all lease guaranties, letters of credit, and any other credit support furnished to Borrower in connection with any of the foregoing (the "Rents");

(vi) Any and all awards, payments or settlements, including interest thereon, and the right to receive the same, as a result of: (a) the exercise of the right of eminent domain; (b) the alteration of the grade of any way, street, avenue, road, alley, passage or public place; (c) any other injury, damage, casualty or claim relating to the taking of, or decrease in the value of, the Real Property, Improvements or Appurtenances; or (d) proceeds of insurance awards, to the extent of all amounts which may be secured by this Mortgage at the date of any such award or payment including, but not limited to, Reasonable Attorneys' Fees (as hereinafter defined), costs and disbursements incurred by Lender in connection with the collection of such award or payment;

(vii) All fixtures, materials, equipment, machinery, apparatus, appliances, water taps and other property whatsoever now or hereafter attached to, installed in, or used in connection with the Improvements, including, but not limited to, furnaces, steam boilers, hot-water boilers, oil burners, pipes, radiators, air-conditioning and sprinkler systems, gas and electric fixtures, carpets, rugs, shades, awnings, screens, elevators, motors, dynamos, cabinets and all other furnishings, tools, equipment and machinery, appliances, building supplies, materials, and all fixtures, accessions and appurtenances thereto, and all renewals or replacements of or substitutions for any of the foregoing, all of which property and things are hereby declared to be permanent fixtures and accessions to the freehold and part of the realty conveyed herein as security for the indebtedness herein mentioned; and

(viii) All agreements or contracts relating to any interest rate cap agreements, swaps or other interest hedging agreements.

In order to secure the repayment of the Loan, together with interest on the Loan, as well as the payment of all other sums of money secured hereby, as hereinafter provided; and to secure the observance, performance

and discharge by Borrower of all covenants, conditions and agreements set forth in the Note, this Mortgage and in the other Loan Documents; and in order to charge the properties, interests and rights hereinafter described with such payment, observance, performance and discharge; and in consideration of the sum of Ten and No/100 Dollars (\$10.00) paid by Lender and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby grants Lender a security interest in all Fixtures, Goods (including, without limitation, Consumer Goods, Inventory, Equipment and Farm Products), Accounts, Chattel Paper (including, without limitation, Electronic Chattel Paper and Tangible Chattel Paper), Instruments, General Intangibles (including, without limitation, Payment Intangibles and Software), Letters of Credit, Letter-of-Credit Rights, Documents, As-Extracted Collateral, Money and Deposit Accounts of every kind, and all proceeds thereof, including, without limitation, any and all licenses, permits, franchises, trademarks, trade names, service marks or logos, plans, specifications, maps, construction contracts, instruments, insurance policies, fittings and fixtures of every kind, which is, are or shall hereafter be located upon, attached, affixed to or used or useful, either directly or indirectly, in connection with the complete and comfortable use, occupancy and operation of the Real Property, Improvements or Appurtenances as a commercial retail development (the "Existing Use"), or any other business, enterprise or operation as may hereafter be conducted upon or with said Real Property, Improvements or Appurtenances, including, without limitation, any and all licenses, permits or franchises, used or required in connection with such use, occupancy or operation as well as the proceeds thereof or therefrom regardless of form, all security deposits and advance rentals under lease agreements now or at any time hereafter covering or affecting any of the Property (as hereinafter defined) and held by or for the benefit of Borrower, all monetary deposits which Borrower has been required to give to any public or private utility with respect to utility services furnished to the Real Property or Improvements, all rents, issues and profits from leases of all or any part of the Real Property or Improvements, all proceeds (including premium refunds) of each policy of insurance relating to the Real Property or Improvements, all proceeds from the taking of the Real Property or Improvements or any part thereof or any interest therein or right or estate appurtenant thereto by eminent domain or by purchase in lieu thereof, all amounts deposited in escrow for the payment of ad valorem taxes, assessments, charges, ground rentals and/or premiums for policies of insurance with respect to the Real Property or Improvements, all proceeds and other amounts paid or owing to Borrower under or pursuant to any and all contracts and bonds relating to the construction, erection or renovation of the Real Property or Improvements, all oil, gas and other hydrocarbons and other minerals owned by Borrower and produced from or allocated to the Real Property and all products processed or obtained therefrom, the proceeds thereof, and all accounts and general intangibles under which such proceeds may arise, together with any sums of money that may now or at any time hereafter become due and payable to Borrower by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and future oil, gas and mining leases covering the Real Property or any part thereof (collectively, the "Fixtures and Personal Property," which term expressly excludes any toxic waste or substance deemed hazardous under federal, regional, state or local laws, codes, ordinances, statutes, rules, regulations, decisions or orders). Borrower hereby expressly grants to Lender a present security interest in and a lien and encumbrance upon the Fixtures and Personal Property.

Except as otherwise expressly provided in this Mortgage, all terms in this Mortgage relating to the Property and the grant of the foregoing security interest which are defined in the Uniform Commercial Code of the State (the "UCC") shall have the meanings assigned to them in Article 9 (or, absent definition in Article 9, in any other Article) of the UCC, as those meanings may be amended, revised or replaced from time to time. Notwithstanding the foregoing, the parties intend that the terms used herein which are defined in the UCC have, at all times, the broadest and most inclusive meanings possible. Accordingly, if the UCC shall in the future be amended or held by a court to define any term used herein more broadly or inclusively than the UCC in effect on the date of this Mortgage, then such term, as used herein, shall be given such broadened meaning. If the UCC shall in the future be amended or held by a court to define any term used

herein more narrowly, or less inclusively, than the UCC in effect on the date of this Mortgage, such amendment or holding shall be disregarded in defining terms used in this Mortgage.

The Real Property, Improvements, Appurtenances, Rents, Fixtures and Personal Property and all other property of any kind described herein and in which Borrower has granted Lender a security interest are hereinafter collectively referred to as the "Property".

TO HAVE AND TO HOLD the foregoing Property and the rights hereby granted for its use and benefit unto Lender and its successors and assigns in fee simple forever.

Borrower hereby covenants and warrants with and to Lender that Borrower is indefeasibly seized of the Property and has good right, full power and lawful authority to convey and encumber all of the same as aforesaid; that Borrower hereby fully warrants the title to the Property and will defend the same and the validity and priority of the lien and encumbrance of this Mortgage against the lawful claims of all persons whomsoever; and Borrower further warrants that the Property is free and clear of all liens and encumbrances of any kind, nature or description, save and except only (with respect to said Real Property, Improvements and Appurtenances) for real property taxes for years subsequent to the second half of 2014 and those exceptions accepted by Lender as set forth in the title insurance commitment or proforma policy issued to Lender precedent to the issuance of a Loan Policy of Title Insurance insuring the first lien priority of this Mortgage (the "Permitted Exceptions").

PROVIDED ALWAYS, however that if Borrower shall pay to Lender the Loan and if Borrower shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every one of the terms, covenants, conditions and agreements of the Note, this Mortgage and all other Loan Documents (except those that either survive repayment of the Loan or are no longer of any force or effect by reason of repayment of the Loan), then this Mortgage and the estates and interests hereby granted and created shall cease, terminate and be null and void, and shall be discharged of record at the expense of Borrower.

Borrower, for the benefit of Lender and its successors and assigns, does hereby expressly covenant and agree as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall (i) pay the principal of the Loan, together with all interest thereon, in accordance with the terms, covenants and conditions of the Note, promptly at the times, at the place and in the manner that said principal and interest shall become due, and (ii) shall promptly and punctually pay all other sums required to be paid by Borrower pursuant to the terms, covenants and conditions of the Note, this Mortgage, the Assignment of Leases, Rents and Profits of even date herewith (the "Assignment") and all other documents and instruments executed as further evidence of, as additional security for or executed by Borrower in connection with the Loan (collectively, the "Loan Documents").

2. PERFORMANCE OF OTHER OBLIGATIONS. Borrower shall (i) perform, comply with and abide by each and every one of the terms, covenants, conditions and agreements contained and set forth in the Note, this Mortgage and the other Loan Documents; shall comply with all Laws (as hereinafter defined); (ii) perform all of its obligations under any term, covenant, condition, restriction or agreement of record affecting the Property; (iii) ensure that at all times the Property constitutes one or more legal lots capable of being conveyed without violation of any subdivision or platting laws, codes, ordinances, statutes, rules, regulations, or other laws relating to the division, separation or subdivision of real property; and (iv) perform and comply with all terms and conditions of that certain Termination of Ground Lease and Re-Affirmation of Easement Agreement (the "Easement Agreement") dated September 9, 2003 by and between Rookwood

Pavilion Limited Partnership, an Ohio limited partnership and Rookwood Commons LLC, an Ohio limited liability company, Borrower's predecessor-in-interest, and shall not amend, modify or allow the Easement Agreement to terminate at any time during the term of the Loan, without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

3. PRESERVATION AND MAINTENANCE OF PROPERTY; ACCESSIBILITY; HAZARDOUS SUBSTANCES.

(a) Borrower shall keep all Improvements now existing or hereafter erected on the Real Property in good order and repair, only to be used for the Existing Use, and shall not do or knowingly permit any direct intentional physical waste, impairment or deterioration thereof or thereon; shall not alter, remove or demolish any of the Improvements or any Fixtures and Personal Property attached or appertaining thereto, without the prior written consent of Lender; shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses which may be made of the Property or any part thereof; and shall not do or permit any other act whereby the Property shall become less valuable, be used for purposes contrary to applicable Law or be used in any manner which will increase the premium for or result in a termination or cancellation of the insurance policies hereinafter required to be kept and maintained on the Property. In furtherance of, and not by way of limitation upon, the foregoing covenant, Borrower shall effect such repairs as Lender may reasonably require, and from time to time make all needful and proper replacements so that the Improvements, Appurtenances, Fixtures and Personal Property will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed. In connection with the making of such repairs, Borrower shall use contractors who are properly licensed, who carry workers' compensation insurance and appropriate liability insurance, who generally have a good reputation for completing their work in a neat, prompt and workmanlike manner, and use only new or re-manufactured goods of a quality as good or better than that originally used on the Property. As provided herein, Borrower shall ensure that no liens are filed against the Property that relate in any way to the repair work provided for herein.

(b) Borrower at all times shall keep the Property and ground water of the Property free of Hazardous Substances (as hereinafter defined) and any liens arising in connection therewith. Borrower shall not and shall not knowingly permit its tenants or any third party requiring the consent of Borrower to enter the Property, to use, generate, manufacture, treat, store, release, threaten release, transport on or over, emit or dispose of Hazardous Substances in, on, over, under or about the Property, including the ground water of the Property, in violation of any federal, regional, state or local law, code, ordinance, statute, rule, regulation, decision or order currently in existence or hereafter enacted or rendered, including, but not limited to, those enumerated in the Indemnity Agreement of even date herewith executed by Borrower (the "Indemnity Agreement") (collectively, "Hazardous Substances Laws"). Borrower shall give Lender prompt Written Notice (as hereinafter defined) of any claim by any person, entity or governmental agency that a significant release or disposal of Hazardous Substances has occurred in, on, over, under or about the Property, including the ground water of the Property, in excess of those permitted by the Hazardous Substances Laws, whether caused by Borrower, any tenant or any third party. Borrower at its sole cost, shall promptly and thoroughly investigate any suspected release of Hazardous Substances in, on, over, under or about the Property, including the ground water of the Property. Borrower shall forthwith remove, repair, remediate, clean up and/or detoxify any Hazardous Substances found in, on, over, under or about the Property, or in the ground water of the Property, to the extent such actions are required by any applicable Hazardous Substances Laws, and whether or not Borrower was responsible for the existence of the Hazardous Substances in, on, over, under or about the Property or the ground water of the Property. Hazardous

Substances shall include, but not be limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" under any Hazardous Substances Laws. In addition, Borrower shall not incorporate any underground storage tanks into the Real Property without the prior written consent of Lender, and shall ensure that all tanks currently on the Real Property comply with current Hazardous Substances Laws and underground storage tank regulations and are properly registered. In the event that the Property is repaired, renovated or demolished in any manner that has the potential to result in the generation, disturbance or disposal of any Hazardous Substances, all such work shall be performed in compliance with Law by contractors adequately insured and properly licensed in the State. A final report demonstrating satisfactory completion of such work and the legal disposal of any Hazardous Substances shall be provided to Lender by the contractor.

(c) Borrower hereby agrees to indemnify and defend Lender and hold Lender harmless from and against any and all losses, liabilities, damages, injuries, actual out-of-pocket costs and expenses, fines, fees, suits, actions, debts, obligations, and claims of any and every kind whatsoever, including Reasonable Attorneys' Fees (collectively, "Losses") paid, incurred or suffered by, or asserted against, Lender for, with respect to, or as a direct or indirect result of the presence in, on, over, under or about, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Substances (including, without limitation, any losses, liabilities, damages, injuries, actual out-of-pocket costs and expenses or claims asserted or arising under any Hazardous Substances Laws), regardless of the source of origination and whether or not caused by, or within the control of, Borrower and including strict liability. Notwithstanding the above, Borrower shall owe no obligation to protect, defend, indemnify, release and hold harmless Lender as a result of Losses resulting from any act, omission or negligence of Lender or any of its affiliates, agents or contractors. Liability under this Section 3(c) and similar provisions in this Mortgage and the other Loan Documents concerning Hazardous Substances shall survive repayment of the Note and satisfaction of this Mortgage unless, at the time release from liability is requested, Borrower provides Lender with an updated environmental report prepared by the environmental engineer that issued the environmental report to Lender in connection herewith, or another environmental engineer reasonably acceptable to Lender demonstrating that the Property is free of Hazardous Substances and is not or is no longer in violation of any Hazardous Substances Laws. Borrower shall not be liable under this indemnity if the Property becomes contaminated by Hazardous Substances subsequent to a transfer of the Property by foreclosure or acceptance by Lender of a deed in lieu of foreclosure, or subsequent to any transfer of ownership of the Property that was approved or authorized by Lender in writing, or subsequent to the appointment of a receiver who takes possession of the Property. The burden of proof under this Section 3(c) with regard to establishing the date upon which Hazardous Substances were placed, appeared or released in, on, over, under or about the Property shall be upon Borrower.

Borrower at all times shall maintain the Property in full compliance with all federal, state, county, regional or local laws, codes, ordinances, rules, regulations, decisions and orders currently in existence or hereafter enacted or rendered, governing accessibility for the disabled, including, but not limited to: The Architectural Barriers Act of 1968, The Rehabilitation Act of 1973, The Fair Housing Act of 1988, The Americans with Disabilities Act, and any other applicable State statutes, laws or ordinances (collectively, the "Accessibility Laws").

Borrower hereby agrees to indemnify and defend Lender and hold Lender harmless from and against any and all Losses paid, incurred or suffered by, or asserted against Lender for, with respect to, or as a direct or indirect result of the non-compliance of the Property with the Accessibility Laws (including, without limitation, any and all costs incurred in order to cause the Improvements to comply with Accessibility Laws), whether or not caused by, or within the control of, Borrower and including

strict liability. Notwithstanding the foregoing, Borrower shall owe no obligation to protect, defend, indemnify, release and hold harmless Lender as a result of Losses resulting from any act, omission or negligence of Lender or any of its affiliates, agents or contractors. Liability under this Section 3 (c) and similar provisions in this Mortgage and the other Loan Documents concerning Accessibility Laws shall survive for twelve (12) months following repayment of the Note and satisfaction of this Mortgage. Borrower shall not be liable under this Section 3(c) for compliance with any Accessibility Laws that first become effective, or for any violations of any Accessibility Laws resulting from alterations or improvements to the Property that are performed (i) subsequent to a transfer of the Property by foreclosure or acceptance of a deed in lieu of foreclosure, or (ii) subsequent to any transfer that was approved or authorized by Lender in writing or (iii) by a receiver but only to the extent such receiver received Lender's prior written consent. The burden of proof under this Section 3(c) with regard to establishing the date upon which such non-compliance with any Accessibility Laws occurred at the Property shall be upon Borrower.

(d) Lender and/or its agents shall have the right and shall be permitted, but shall not be required, at all reasonable times, upon reasonable advance notice, to enter upon and inspect the Property to insure compliance with the foregoing covenants, and any and all other terms, covenants, conditions and agreements set forth in this Mortgage.

4. PAYMENT OF TAXES, ASSESSMENTS AND OTHER CHARGES. Borrower shall pay all taxes, assessments and other similar charges as already levied or assessed, or that may be hereafter levied or assessed, upon or against the Property, when the same shall become due and payable according to Law, before delinquency and before any interest or penalty shall attach thereto, and to deliver official receipts evidencing the payment of the same to Lender not later than thirty (30) days following the payment of the same. Borrower shall have the right to contest, in good faith and in accordance with applicable Laws and procedures, the proposed assessment of ad valorem taxes or special assessments by governmental authorities having jurisdiction over the Property; provided, however, Borrower shall give Written Notice of its intent to bring such an action to Lender. Any such contest, however, shall not relieve Borrower of its obligation to pay all taxes, assessments and similar charges in full as required by the first sentence of this Section 4, and Lender may, in its sole discretion, require Borrower to post a bond or other collateral satisfactory to Lender (and acceptable to the title company insuring this Mortgage to insure over said lien, charge or encumbrance) as a result of Borrower's act.

5. PAYMENT OF LIENS, CHARGES AND ENCUMBRANCES. Borrower shall promptly pay and discharge from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, realtors, brokers and others which if unpaid, might result in, or permit the creation of, a lien, charge or encumbrance upon the Property or any part thereof, or on the Rents, arising therefrom and, in general, to do or cause to be done everything necessary so that the lien of this Mortgage shall be fully preserved, at the sole cost of Borrower, without expense to Lender. Notwithstanding the foregoing, Borrower shall have the right to contest, in good faith and in accordance with applicable Laws and procedures, mechanics', materialmen's and other such liens filed against the Property; provided, however, that Borrower shall give Written Notice to Lender of its intent to bring such action and Lender may, in Lender's sole discretion, require Borrower to post a bond or other collateral satisfactory to Lender (and acceptable to the title company insuring this Mortgage) as a result of Borrower's act.

6. PAYMENT OF JUNIOR ENCUMBRANCES. Borrower shall permit no default or delinquency under any other lien, imposition, charge or encumbrance against the Property, even though junior and inferior to the lien of this Mortgage; provided, however, the foregoing shall not be construed to permit any such additional lien or encumbrance against the Property, other than the Permitted Exceptions.

7. PAYMENT OF MORTGAGE TAXES. Borrower shall pay any and all taxes which may be levied or assessed directly or indirectly upon the Note and/or this Mortgage (except for income taxes payable by Lender) or the Loan, without regard to any Law which may be hereafter enacted imposing payment of the whole or any part thereof upon Lender, its successors or assigns. Upon violation of this covenant, or upon the rendering by any court of competent jurisdiction of a decision that such a covenant by Borrower is legally inoperative, or if any court of competent jurisdiction shall render a decision that the rate of said tax when added to the rate of interest provided for in the Note exceeds the then maximum rate of interest allowed by Law, then, and in any such event, the debt hereby secured shall, at the option of Lender, its successors or assigns, become immediately due and payable within one hundred twenty (120) days after Lender provides Written Notice to Borrower thereof, anything contained in this Mortgage or in the Note notwithstanding, without the imposition of a Prepayment Premium (as defined in the Note). The additional amounts which may become due and payable hereunder shall become a part of the Loan secured by this Mortgage.

8. HAZARD INSURANCE.

(a) Borrower shall continuously during the term of this Mortgage, keep the Improvements, Appurtenances, and Fixtures and Personal Property, now or hereafter existing, erected, installed and located in or upon the Real Property, insured with all risk property damage (extended coverage all risk) insurance against loss or damage resulting from fire, windstorm, flood, sinkhole, earthquake, mine subsidence, certified acts of terrorism (provided, however, Lender shall excuse Borrower from the obligation hereunder to maintain insurance against acts of terrorism if in the future Borrower provides to Lender, evidence reasonably satisfactory to Lender that terrorism insurance is (i) not available at commercially reasonable rates, and (ii) not required by other lenders holding mortgage loans on similar properties in the same geographic area as the Real Estate), without a co-insurance provision, including, without limitation, such other types and amounts of insurance with respect to the Property and the operation thereof which are commonly maintained in the case of other properties and buildings similar to the Property in nature, use, location, height and type of construction, on such forms and with such deductibles as may be required by Lender, from time to time, in order to protect its interests, all to the extent generally required and with deductibles as are generally required with respect to properties located in Cincinnati, Ohio similar to the Property, covering the Property in the amount of the full replacement cost thereof (without taking into account any depreciation), and covering all loss or abatement of rental or other income, without a provision for co-insurance, in an amount equal to the scheduled rental income (including base rent, expense reimbursements and other income) from the Property for at least twelve (12) months, or if applicable, business interruption insurance in an amount sufficient to pay debt service on the Note, operating expenses, taxes, insurance and other required escrows for the Property for a period of twelve (12) months, and covering loss by flood (if at any time during the term of the Loan the Improvements are shown to lie wholly or partially within a Special Flood Hazard Area as designated on the Department of Housing and Urban Development's Maps, or any other flood prone area) in an amount equal to the outstanding principal balance of the Loan or such other amount as approved by Lender, and earthquake insurance with a deductible amount of no more than ten percent (10%) of the policy amount, if the Property is located within one-half (1/2) mile of an Alquist-Priolo Special Earthquake Study Zone or if, in the reasonable judgment of Lender's inspecting architect, the Property lies in an area of anticipated significant seismic activity, and "Ordinance or Law Coverage" or "Enforcement" endorsements in amounts satisfactory to Lender if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses or the ability to rebuild the Improvements is restricted or prohibited, and comprehensive boiler and machinery insurance (without exclusion for explosion), if applicable, in amounts as shall be reasonably required by Lender and covering all boilers or other pressure vessels, machinery and equipment located at or about the Property (including, without limitation, electrical

equipment, sprinkler systems, heating and air conditioning equipment, refrigeration equipment and piping). All such insurance shall be underwritten with a company or companies licensed to do business in the State, which is acceptable to Lender, which company or companies shall have and maintain a rating equivalent to at least A-:VIII as shown in the most recent Best's Key Rating Guide. Borrower shall provide Lender evidence reasonably satisfactory to Lender in Lender's sole discretion of commercial property insurance indicating that Lender is the mortgagee and lender's loss payee under such policy in regard to the Property and showing the amount of coverage apportioned to the Property, which coverage shall be in an amount sufficient to satisfy the requirements hereof. Each such policy of insurance shall contain a noncontributing loss payable clause in favor of and in a form acceptable to Lender, and shall provide for not less than thirty (30) days prior Written Notice to Lender of any intent to modify, non-renew, cancel or terminate the policy or policies, or the expiration of such policies of insurance, or the exclusion of any individual risk such as acts of terrorism. If the insurance required under this Section 8 or any portion thereof is maintained pursuant to a blanket policy, any such blanket policy shall provide the same protection as would a separate policy insuring only the Property and shall be in compliance with this subsection 8(a), including compliance with the requirement that all carriers participating in such blanket policy shall have and maintain a rating of at least A-:VIII. Borrower shall furnish to Lender a copy of such endorsement and/or declaration page showing the Property properly endorsed thereunder (or such other evidence as may be agreed upon between Lender and Borrower under the terms of the Loan Documents). Not later than the expiration dates of each policy required of Borrower hereunder, Borrower will deliver to Lender evidence of renewal accompanied by other evidence of payment and renewal satisfactory to Lender. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the Loan, all right, title and interest of Borrower in and to any rights to unearned premiums, and in and to insurance proceeds then payable from any prior covered claims or events under any insurance policies in force on or prior to the date of transfer, shall pass to the purchaser or grantee.

(b) In the event of loss by reason of hazards, casualties, contingencies and perils for which insurance has been required by Lender hereunder, Borrower shall give immediate notice thereof to Lender. Lender is hereby irrevocably appointed attorney-in-fact coupled with an interest for Lender, at its option, to make proof of loss and/or to file a claim thereunder if Borrower shall fail or refuse to perform same within five (5) Business Days after Lender's written request therefor. Lender shall give prompt notice to Borrower of any exercise of such power of attorney as provided in this Section along with copies of all proofs of loss and/or to claims filed therewith. Each insurance company concerned is hereby notified, authorized and directed to make payment for any such loss that exceeds five percent (5%) of the original principal amount of the Note directly to Lender, instead of to Borrower and Lender jointly, and, in the event that Borrower fails to do so, Borrower hereby authorizes Lender to adjust and compromise any losses for which insurance proceeds are payable under any of the aforesaid insurance policies and, after deducting the costs of collection, to apply the proceeds of such insurance, at its option either: (i) to the restoration or repair of the insured Improvements, Appurtenances, and Fixtures and Personal Property, provided that, in the reasonable opinion of Lender, such restoration or repair is reasonably practical and, provided further, that, in the reasonable opinion of Lender, either: (1) the insurance proceeds so collected are sufficient to cover the cost of such restoration or repair of the damage or destruction with respect to which such proceeds were paid, or (2) the insurance proceeds so collected are not sufficient alone to cover the cost of such restoration or repair but are sufficient therefor when taken together with funds provided and made available by Borrower from other sources, in which event Lender shall make such insurance proceeds available to Borrower for the purpose of effecting such restoration or repair, but Lender shall not be obligated to see to the proper application of such insurance proceeds nor shall the amount of funds so released or used be deemed to be payment of or on account of the Loan; or (ii) to the reduction of the Loan,

notwithstanding the fact that the amount owing thereon may not then be due and payable or that said Loan is otherwise adequately secured, in which event such proceeds shall be applied at par, without any Prepayment Premium, against the Loan and the monthly payments due on account of such Loan shall be reduced accordingly as calculated by Lender in good faith. None of such actions taken by Lender shall be deemed to be or result in a waiver or impairment of any equity, lien or right of Lender under and by virtue of this Mortgage, nor will the application of such insurance proceeds to the reduction of the Loan serve to cure any default in the payment thereof. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the Loan, all right, title and interest of Borrower in and to any rights to unearned premiums and in and to insurance proceeds then payable from any prior covered claims or events under any insurance policies in force on or prior to the date of transfer, shall pass to the purchaser or grantee.

(c) In case of Borrower's failure to keep the Property properly insured as required herein, Lender, its successors or assigns, may, at its option (but shall not be required to), acquire such insurance as required herein at Borrower's sole expense.

(d) Notwithstanding any of the foregoing provisions of this Section 8 to the contrary (but subject to the last paragraph of this Section 8), in the event of loss or damage to the Property by fire or other casualty covered by insurance maintained by Borrower, including without limitation, insurance that has been required by Lender and provided by Borrower, and the amount of such loss or damage does not exceed forty percent (40%) of the original principal amount of the Note, Lender hereby agrees to allow the proceeds of insurance to be used for the restoration of the Property and to release such insurance proceeds to Borrower as such restoration progresses, subject to the following conditions:

(i) No Event of Default has occurred and is continuing under any of the terms of this Mortgage, the Note, the other Loan Documents;

(ii) Making reasonable assumptions as re-leasing any vacant space, the Improvements are expected to be at least eighty percent (80%) leased after restoration of the Property;

(iii) The plans and specifications for the restoration of the Property shall have been approved in writing by Lender in advance, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, that Lender may waive this requirement if no material changes are made from the original plans and specifications for the Improvements;

(iv) At all times during such restoration, Borrower has deposited with Lender funds which, when added to the insurance proceeds received by Lender, are sufficient to complete the restoration of the Property in accordance with the approved plans and specifications, and all applicable building codes, zoning ordinances, regulations and Accessibility Laws after accounting for any permissible non-conforming uses, and the funds on deposit with Lender are sufficient to complete the restoration of the Property as certified to Lender by Lender's inspecting architect/engineer;

(v) Borrower provides suitable builders' all risk insurance in such amounts, with such deductibles and upon such other terms and conditions as are reasonably acceptable to Lender, together with all necessary licenses and permits for such restoration in form and amount reasonably acceptable to Lender;

(vi) The property insurer under such policies of fire or other casualty insurance does not assert any valid defenses to, withholds or restricts payment under Borrower's property insurance;

(vii) Lender shall, upon the completion of such restoration of the Property, deliver any surplus insurance proceeds remaining after the completion of such restoration to Borrower;

(viii) The insurance proceeds and any other funds held by Lender shall be disbursed by Lender no more often than once per month and in not more than seven (7) increments of not less than \$50,000 each, except the final disbursement which may be in an amount less than \$50,000;

(ix) Lender's obligation to make any such disbursement shall be conditioned upon Lender's receipt of written certification from Lender's inspecting architect/engineer (whose fees shall be reimbursed to Lender by Borrower) that all construction and work for which such disbursement is requested has been completed in accordance with the approved plans and specifications and in accordance with all applicable building codes, zoning ordinances and all other Laws (after accounting for any permissible non-conforming uses) and, further, that Borrower has deposited with Lender sufficient funds to complete such restoration in accordance with Section (8)(d)(iv); and

(x) Lender shall be entitled to require and to impose such other reasonable conditions to the release of such funds as would be customarily required and imposed by institutional mortgage lenders or that are otherwise commercially reasonable construction-type loan disbursement requirements.

Notwithstanding the foregoing, in the event of loss or damage to the Property by fire or other casualty for which insurance has been required by Lender and provided by Borrower, and the amount of such loss or damage does not exceed five percent (5%) of the original principal amount of the Note, then Lender shall allow such insurance proceeds to be released to Borrower to be used for the restoration of the Property, with any excess of such proceeds to be released to Borrower upon completion of such restoration.

9. LIABILITY INSURANCE. Borrower shall carry and maintain such commercial general liability insurance in an adequate amount as may from time to time be required by Lender in order to protect its interest, all to the extent generally required, and with deductibles as are generally required with respect to properties similar to the Property which are located in Cincinnati, Ohio, taking into consideration the type of property being insured and the corresponding liability exposure, on forms, with deductibles, in amounts and with such company or companies licensed to do business in the State and as may be acceptable to Lender. All such commercial general liability insurance shall be underwritten with a company or companies which have and maintain a rating equivalent to at least A-:VIII as shown in the most recent Best's Key Rating Guide. The original policy or policies and all renewals thereof are hereby assigned to Lender as additional security for the Loan. Borrower shall provide Lender evidence of liability insurance and an additional insured endorsement for general liability insurance. Such policy or policies of insurance shall name Lender as an additional insured and shall provide for not less than thirty (30) days prior Written Notice to Lender of any intent to modify, cancel, non-renew or terminate the policy or policies or the expiration of such policy or policies of insurance, or the exclusion of any individual risk such as acts of terrorism. Not later than the expiration dates of each policy or policies required of Borrower hereunder, Borrower will deliver to Lender evidence of renewal accompanied by other evidence of payment and renewal satisfactory to Lender. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the Loan, all right, title and interest of Borrower in and to any rights to unearned premiums, and in and to insurance

proceeds then payable from any prior covered claims or events under any insurance policies in force on or prior to the date of transfer, shall pass to the purchaser or grantee. In case of Borrower's failure to keep the Property properly insured as required herein, Lender, its successors or assigns, may, at its option (but shall not be required to), acquire such insurance as required herein at Borrower's sole expense.

10. COMPLIANCE WITH LAWS.

(a) Borrower shall observe, abide by and comply in all material respects with all federal, regional, state and local laws, codes, ordinances, statutes, rules, regulations, decisions, orders, requirements or decrees relating to the Property enacted, promulgated or issued by any federal, state, county or local governmental or quasi-governmental authority or any agency or subdivision thereof having jurisdiction over Borrower or the Property, which now or hereafter affect Borrower or the Property, including Hazardous Substances Laws and Accessibility Laws (collectively, the "Laws"), and to observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning, variances, special exceptions and nonconforming uses), privileges, franchises and concessions which are applicable to the Property, or which have been granted to or contracted for by Borrower in connection with any existing, presently contemplated or future uses of the Property.

(b) Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, this Mortgage and the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Borrower shall deliver to Lender such certifications or other evidence from time to time throughout the term of this Mortgage, as requested by Lender in its sole discretion, that (i) Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) one or more of the following circumstances is true:

(1) Equity interests in Borrower are publicly offered securities within the meaning of 29 C.F.R. § 2510.3-101(b)(2);

(2) Less than twenty-five percent (25%) of each outstanding class of equity interests in Borrower are held by "benefit plan investors" within the meaning of 29 C.F.R. § 2510.3-101(f)(2); or

(3) Borrower qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. § 2510.3-101(c) or (e) or an investment company registered under The Investment Company Act of 1940.

11. MAINTENANCE OF PERMITS. Borrower shall obtain, keep and constantly maintain in full force and effect during the entire term of this Mortgage, all certificates, licenses and permits necessary to keep the Property operating for the Existing Use and, except as specifically provided for in this Mortgage, shall not assign, transfer or in any manner change such certificates, licenses or permits without first receiving the written consent of Lender.

12. OBLIGATIONS OF BORROWER AS LESSOR.

(a) Borrower shall use commercially reasonable efforts to timely fulfill and perform every obligation, condition and covenant of Borrower (as the landlord) contained in any and every lease, license or other occupancy agreement of or affecting the Property or any part thereof (the "Occupancy Leases") and shall use commercially reasonable efforts to timely enforce every obligation, condition and covenant of each tenant in any and every Occupancy Lease, and shall not amend, modify, alter, waive, cancel, surrender or terminate any such Occupancy Leases or any part thereof or rights thereunder, without the prior written consent of Lender which consent shall not be unreasonably withheld, conditioned or delayed (but such consent shall not be required for such action as to any Occupancy Lease that is not with a Major Tenant (as hereafter defined)) provided such action is in the ordinary course of business of owning and operating the Property in a prudent and business-like manner and at market rents and on market terms for similar property the ("Prudent Market Standard") or is expressly permitted under the terms of any Occupancy Lease, nor collect for more than thirty (30) days in advance of the date due any Rents that may be collectible under any such Occupancy Leases and, except as provided for in this Mortgage, shall not assign any such Occupancy Lease(s) or any such Rents relating thereto, to any party other than Lender, without the prior written consent of Lender. Borrower will notify Lender in writing of any default notice provided by Borrower under any Occupancy Lease with a Major Tenant. In the event of default (beyond any applicable notice and cure periods) under any such Occupancy Lease by reason of failure of Borrower to keep or perform one or more of the covenants, agreements or conditions thereof, Lender is hereby authorized and empowered, and may, at its sole option, remedy, remove or cure any such default, and further, Lender may, at its sole option and in its sole discretion but without obligation to do so, pay any sum of money deemed necessary by Lender for the performance of said covenants, agreements and conditions, or for the curing or removal of any such default, and incur all expenses and obligations which Lender may consider necessary or reasonable in connection therewith, and Borrower shall repay within ten (10) business days following demand all such sums so paid or advanced by Lender together with interest thereon from the due date until paid at the lesser of either: (i) the highest rate of interest then allowed by the Laws of the State, or, if controlling, the Laws of the United States, or (ii) the then applicable interest rate of the Note plus five hundred (500) basis points per annum; all of such sums, if unpaid, shall be added to and become part of the Loan.

(b) All such Occupancy Leases hereafter made shall be subject to the review, comment and approval of Lender and, unless otherwise approved by Lender, which approval shall not be unreasonably withheld, conditioned or delayed: (i) shall be at competitive market rental rates then prevailing in the geographic area for projects used for the Existing Use comparable to the Property; (ii) shall have lease terms of not less than three (3) years; and (iii) at Lender's option, shall be superior or subordinate in all respects to the lien of this Mortgage. Notwithstanding the foregoing, Lender shall not require approval in advance of any Occupancy Leases not with a Major Tenant which either substantially conforms to Borrower's Form Lease (as hereinafter defined) as approved by Lender and in accordance with the Prudent Market Standard, subject to commercially reasonable changes made during the course of negotiation of such Occupancy Lease, or is with a national tenant and is on the lease form of such national tenant. Provided that no Event of Default is continuing, if (i) Borrower provides Lender with a written request for approval of a proposed Occupancy Lease or a proposed renewal, extension or modification of an existing Occupancy Lease, and (ii) Lender fails to approve or disapprove the request in writing delivered to Borrower within ten (10) business days after receipt by Lender, provided that such request is sent certified mail or other overnight carrier labeled with the following statement: "TIME SENSITIVE RESPONSE REQUIRED WITHIN TEN (10) BUSINESS DAYS OF ACTUAL RECEIPT", then the proposed Occupancy Lease or proposed renewal, extension

or modification of an existing Occupancy Lease shall be deemed approved by Lender, and Borrower shall be entitled to enter into such proposed Occupancy Lease or proposed renewal, extension or modification of an existing Occupancy Lease. If requested by Borrower, Lender will grant conditional approvals of proposed Occupancy Leases or proposed renewals, extensions or modifications of existing Occupancy Leases, at any stage of the leasing process, from initial "term sheet" through negotiated lease drafts, provided that Lender shall retain the right to disapprove any modifications or changes to any proposed Occupancy Lease or proposed renewals, extensions or modifications of existing Occupancy Leases made subsequent to Lender's approval.

(c) Lender has approved a form of Occupancy Lease to be used by Borrower in connection with the Property (the "Form Lease"). Borrower shall not, without the prior written consent of Lender, which approval shall not be unreasonably withheld, conditioned or delayed, amend, modify or alter the Form Lease and Borrower shall reimburse Lender any of its actual and reasonable out-of-pocket costs and expenses, including Reasonable Attorneys' Fees, for the review of any proposed revisions to the Form Lease, or for the review of proposed Occupancy Leases, any extensions, modifications and amendments to Occupancy Leases and any subordination, non-disturbance and attornment agreements, and estoppels not on Lender's form. To the extent Borrower's approval is required under any Occupancy Lease with a Major Tenant, Borrower shall not, without the prior written consent of Lender, permit an assignment or sublease of any such Occupancy Lease. Borrower shall not, without the prior written consent of Lender, request or consent to the subordination of any Occupancy Lease to any lien subordinate to this Mortgage. Borrower shall furnish Lender with copies of all executed Occupancy Leases of all or any part of the Property now existing or hereafter made, and Borrower shall assign to Lender (which assignment shall be in form and content acceptable to Lender), as additional security for the Note and the Loan, all Occupancy Leases now existing or hereafter made for all or any part of the Property. Additionally, if any Occupancy Lease contains a provision allowing the tenant to terminate its lease upon payment of a lease termination fee, Borrower agrees that all such sums shall constitute Rent, and shall be paid to Lender in accordance with the terms of the Assignment.

(d) Notwithstanding the foregoing approval by Lender of Borrower's Form Lease, Lender hereby specifically reserves the right to approve, which approval shall not be unreasonably withheld, conditioned or delayed, all prospective tenants under all Occupancy Leases hereafter proposed to be made if: (i) the net rentable area to be occupied thereunder, including expansion options which have been exercised, exceeds 10,000 square feet of the net leasable area of each of the buildings comprising the Improvements; (ii) the primary lease term, excluding renewal options, exceeds ten (10) years; (iii) the tenant is a related entity or affiliate of Borrower; or (iv) it is an Occupancy Lease that is to be used to satisfy the release of escrow funds or for other rental achievement purposes (the tenants under such leases being herein referred to as "Major Tenants"). As of the date hereof, the following entities are deemed to be Major Tenants: Bed Bath & Beyond Inc., a New York corporation, WFM-WO, INC., a Delaware corporation (f/k/a Wild Oats Markets, Inc.), Recreational Equipment, Inc., a Washington corporation, Old Navy, LLC, a Delaware limited liability company, The Gap, Inc., a Delaware corporation, Love Culture, LLC, a Delaware limited liability company, DSW Shoe Warehouse, Inc., a Missouri corporation, and Ulta Salon, Cosmetics and Fragrance, Inc., a Delaware corporation. Borrower shall notify Lender in writing of all prospective Major Tenants, and, to the extent in Borrower's possession, shall deliver to Lender a copy of any prospective Major Tenant's current financial statement. The financial statement delivered to Lender hereunder shall be certified by Borrower as a true and correct copy of the financial statement received by Borrower from such tenant.

(e) In no event shall Borrower exercise any right to relocate any lessee outside the Property pursuant to any right set forth in an Occupancy Lease without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed.

13. MAINTENANCE OF PARKING & ACCESS PROHIBITION AGAINST ALTERATION; SEPARATE TAX LOT.

(a) Borrower shall construct, keep and constantly maintain, as the case may be, all curbs, drives, parking areas and the number of parking spaces heretofore approved by Lender, or heretofore or hereafter required by any Laws or any governmental body, agency or authority having jurisdiction over Borrower or the Property, and as required by the terms of the Occupancy Leases, and subject to the provisions of Section 38 hereof, shall not alter, erect, build or construct upon any portion of the Property, any building, structure or improvement of any kind whatsoever, the erection, building or construction of which has not been previously approved by Lender in writing, which approval shall not be unreasonably withheld, conditioned or delayed; provided however, that Borrower shall be permitted to make non-structural alterations and tenant improvements to the extent required by the terms of Occupancy Leases.

(b) Borrower shall cause the Property to remain separately assessed for real estate tax purposes as a separate tax lot or lots.

14. EXECUTION OF ADDITIONAL DOCUMENTS. Borrower shall do, make, execute, acknowledge, witness and deliver all deeds, conveyances, mortgages, deeds of trust, assignments, estoppel certificates, subordination non-disturbance and attornments, notices of assignments, transfers, assurances, security agreements, financing statements and renewals thereof, and all other instruments or other acts necessary, as Lender shall from time to time reasonably require for the purpose of better assuring, conveying, assigning, transferring, securing and confirming unto Lender the Property and rights hereby encumbered, created, conveyed, assigned or intended now or hereafter so to be encumbered, created, conveyed or assigned, or which Borrower may now be or may hereafter become bound to encumber, create, convey or assign to Lender, or for the purpose of carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage, and to pay all filing, registration or recording fees and all taxes, costs and other expenses, including Reasonable Attorneys' Fees, incident to the preparation, execution, acknowledgment, delivery and recordation of any of the same; provided, however, that no such further assurance increases Borrower's obligations or liabilities under the Loan Documents or decreases Borrower's rights under the Loan Documents. By signing this Mortgage, Borrower authorizes Lender to file such financing statements, with or without the signature of Borrower, as Lender may elect, as may be necessary or desirable to perfect the lien of Lender's security interest in the Fixtures and Personal Property. Without limiting any other provision herein, Borrower hereby authorizes Lender to file one or more financing statements and any renewal or continuation statements thereof, describing the Property and the proceeds of the Property, including, without limitation, a financing statement covering "all assets of Borrower all proceeds therefrom, and all rights and privileges with respect thereto." Borrower further authorizes Lender to file, with or without any additional signature from Borrower, as Lender may elect, such amendments and continuation statements as Lender may deem necessary or desirable from time to time to perfect or continue the lien of Lender's security interest in the Fixtures and Personal Property. Borrower hereby ratifies any financing statements that may have been filed by Lender in advance of the date hereof to perfect Lender's security interest in the Fixtures and Personal Property.

15. AFTER-ACQUIRED PROPERTY SECURED. Borrower shall subject to the lien of this Mortgage all right, title and interest of Borrower in and to all extensions, improvements, betterments, renewals, substitutions and replacements of, and all additions and appurtenances to, the Property hereinabove described, hereafter acquired by or released to Borrower, or constructed, assembled or placed by Borrower on the Real Property, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, deed of trust, encumbrance, conveyance, assignment or other act by Borrower, as fully, completely and with the same effect as though now owned by Borrower and specifically described herein, but at any and all times, Borrower will execute and deliver to Lender any and all such further assurances, mortgages, deeds of trust, conveyances, security agreements, financing statements or assignments thereof or security interests therein as Lender may reasonably require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage; provided, however, that no such further assurance increases Borrower's obligations or liabilities under the Loan Documents or decreases Borrower's rights under the Loan Documents.

16. PAYMENTS BY LENDER ON BEHALF OF BORROWER. Unless being contested by Borrower in good faith, in accordance with applicable Laws after prior Written Notice to Lender, Borrower shall make payment of any taxes, assessments or public charges on or with respect to the Property before the same shall become delinquent and shall make payment of any insurance premiums or other charges, impositions, or liens herein or elsewhere required to be paid by Borrower as they become due and, if Borrower shall fail so to do, then Lender, at its sole option, but without obligation to do so, may make payment or payments of the same and also may redeem the Property from tax sale without any obligation to inquire into the validity of such taxes, assessments, tax sales, charges, impositions or liens. In the case of any such payment by Lender, Borrower agrees to reimburse Lender, within ten (10) business days following demand therefor, the amount of such payment and of any fees and expenses attendant in making the same, together with interest thereon from the due date until paid at the lesser of either: (a) the highest rate of interest then allowed by the Laws of the State or, if controlling and not in violation of the Laws of the State, the Laws of the United States, or (b) the then applicable interest rate of the Note plus five hundred (500) basis points per annum; and until paid such amounts and interest shall be added to and become part of the Loan to the same extent that this Mortgage secures the repayment of the Loan. Borrower's failure to reimburse Lender within fifteen (15) days of receiving Lender's demand shall be a Monetary Default (as hereinafter defined) and subject to the terms of Section 23 hereof. In making payments authorized by the provisions of this Section 16, Lender may do so whenever, in Lender's sole judgment and discretion, such advance or advances are necessary or desirable to protect the full security intended to be afforded by this Mortgage. Neither the right nor the exercise of the rights herein granted to Lender to make any such payments as aforesaid shall preclude Lender from exercising its option to cause the Loan to become immediately due and payable by reason of an Event of Default arising out of Borrower's failure to make such payments as hereinabove required.

17. FUNDS HELD BY LENDER FOR TAXES, ASSESSMENTS, INSURANCE PREMIUMS, AND OTHER CHARGES. In order to more fully protect the security of this Mortgage, Borrower shall deposit with Lender, together with and in addition to each monthly payment due on account of the Loan, an amount equal to one-twelfth (1/12) of the annual total of such taxes, assessments, insurance premiums and other charges (all as estimated by Lender in its sole discretion) so that, at least thirty (30) days prior to the due date thereof, Lender shall be able to pay the next installment of taxes and assessments due and one (1) full years worth of insurance premiums and other charges as the same shall become due. Lender may hold the sums so deposited without paying interest, commingle same with its general funds and/or apply the same to the payment of said taxes, assessments, insurance premiums or other charges as they become due and payable. If at any time the funds so held by Lender are insufficient to pay such taxes, assessments, insurance premiums or other charges as they become due and payable, Borrower shall immediately, upon Written Notice

and demand by Lender, deposit with Lender the amount of such deficiency. The failure on the part of Borrower to do so shall entitle Lender, at Lender's sole option, to make such payments in accordance with the rights and pursuant to the conditions elsewhere provided in this Mortgage. Whenever any Event of Default exists under this Mortgage, Lender may, at Lender's sole option but without an obligation so to do, apply any funds so held by Lender pursuant to this Section 17 toward the payment of the Loan, notwithstanding the fact that the amount owing thereon may not then be due and payable or that the Loan may otherwise be adequately secured, in such order and manner of application as Lender may elect.

18. CONDEMNATION; EMINENT DOMAIN. All claims and rights of action for, and all awards and other compensation heretofore or hereafter made to Borrower and all subsequent owners of the Property in any taking by eminent domain, recovery for inverse condemnation or by deed in lieu thereof, whether permanent or temporary, of all or any part of the Property or any easement or any appurtenance thereto, including severance and consequential damages and change in grade of any way, street, avenue, road, alley, passage or public place, are hereby assigned to Lender. Borrower hereby irrevocably appoints Lender as its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers Lender, at the option of Lender as said attorney-in-fact, on behalf of Borrower, its successors and assigns, to adjust or compromise the claim for any such award, and alone to collect and receive the proceeds thereof, to give proper receipts and acquittances therefor if Borrower shall fail or refuse to perform same within five (5) Business Days after Lender's written request therefor. Lender shall give prompt notice to Borrower of any exercise of such power of attorney as provided in this Section along with copies of all claims filed or receipts or acquittances provided therewith. After deducting any expenses of collection, at Lender's sole discretion and option either:

(a) hold said proceeds without any allowance of interest, and make the same available for restoration or rebuilding of the Improvements. In the event that Lender elects to make said proceeds available to reimburse Borrower for the cost of the restoration or rebuilding of the Improvements on the Real Property, such proceeds shall be made available in the manner and under the same conditions as required under Section 8 hereof with respect to a casualty restoration. If the proceeds are made available by Lender to reimburse Borrower for the cost of said restoration or rebuilding, any surplus which may remain out of said award after payment of such cost of restoration or rebuilding shall be applied on account of the Loan at par, without any Prepayment Premium, notwithstanding the fact that the amount owing thereon may not then be due and payable or that the Loan may otherwise be adequately secured; or

(b) in the event there would be no material adverse change in the value of the Property, once restored, as a result of such condemnation or taking by eminent domain, as reasonably determined by Lender, release such proceeds to Borrower for restoration of the Property subject to the same conditions as required under Section 8 hereof.

Borrower further covenants and agrees to give Lender immediate notice of the actual or threatened commencement of any proceedings under eminent domain after Borrower obtains knowledge thereof and to deliver to Lender copies of any and all papers served in connection with any such proceedings. Borrower further covenants and agrees to make, execute and deliver to Lender, at any time or times, upon request, free, clear and discharged of any encumbrance of any kind whatsoever, any and all further assignments and/or other instruments reasonably deemed necessary by Lender for the purpose of validly and sufficiently assigning all such awards and other compensation heretofore or hereafter made to Lender (including the assignment of any award from the United States government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof).

It shall be an Event of Default hereunder if either: (i) any part of any of the Improvements situated on the Real Property shall be condemned by any governmental authority having jurisdiction; (ii) a portion of the Real Property shall be condemned such that the remaining Property is in violation of applicable parking, zoning, platting, or other Laws (unless legal nonconforming); or (iii) any condemnation results in a loss greater than forty percent (40%) of the original principal amount of the Loan, then in each case, Lender shall be entitled to exercise any or all remedies provided or referenced in this Mortgage or the other Loan Documents, including the right to apply the condemnation proceeds to the full principal balance of the Note at par, without any Prepayment Premium, and the right to accelerate the maturity date of the Note and require payment in full without the imposition of a Prepayment Premium within one hundred twenty (120) days of Lender's Written Notice to Borrower. Notwithstanding the foregoing, provided that no other Event of Default is then continuing under the Loan Documents, the then outstanding principal balance due under the Note shall not bear interest at the Default Rate (as defined in the Note) during such one hundred twenty (120) day period.

Notwithstanding the foregoing, in the event of loss to the Property as a result of condemnation and the amount of such loss does not exceed five percent (5%) of the original principal amount of the Note, then Lender shall allow the condemnation award applicable to such loss to be released to Borrower to be used for the restoration of the Property, with any excess of such award to be retained by Borrower upon completion of such restoration.

19. COSTS OF COLLECTION. In the event that the Note is placed in the hands of an attorney for collection, or in the event that Lender shall become a party either as plaintiff or as defendant in any action, suit, appeal or legal proceeding (including, without limitation, foreclosure, condemnation, bankruptcy, administrative proceedings or any proceeding wherein proof of claim is by law required to be filed), hearing, motion or application before any court or administrative body in relation to the Property or the lien and security interest granted or created hereby or herein, or for the recovery or protection of the Loan or the Property, or for the foreclosure of this Mortgage, or for the enforcement of the terms and conditions of the Loan Documents, Borrower shall indemnify, save, defend and hold Lender harmless from and against any and all Losses incurred by Lender on account thereof and Borrower shall repay within ten (10) business days following demand, all such Losses, together with interest thereon from the due date until paid at the lesser of either (a) the highest rate of interest then allowed by the Laws of the State or, if controlling and not in violation of the Laws of the State, the Laws of the United States, or (b) the then applicable rate of interest of the Note plus five hundred (500) basis points per annum; all of which sums, if unpaid, shall be added to and become a part of the Loan.

20. DEFAULT RATE. Any sums not paid when due, whether maturing by lapse of time or by reason of acceleration under the provisions of the Note, this Mortgage or any of the other Loan Documents, and whether principal, interest or money owing for advancements pursuant to the terms of this Mortgage or any other Loan Document, shall bear interest following the expiration of any cure period until paid at the lesser of either (a) the highest rate of interest then allowed by the Laws of the State or, if controlling and not in violation of the Laws of the State, the Laws of the United States, or (b) the then applicable rate of interest of the Note plus five hundred (500) basis points per annum; all of which sums shall be added to and become a part of the Loan.

21. SAVINGS CLAUSE. Notwithstanding any provisions in the Note or in this Mortgage to the contrary, the total liability for payments in the nature of interest, including, but not limited to, Prepayment Premiums, default interest and late payment charges, shall not exceed the limits imposed by the Laws of the State or, if controlling and not in violation of the Laws of the State, the Laws of the United States, relating

to maximum allowable charges of interest. Lender shall not be entitled to receive, collect or apply, as interest on the Loan, any amount in excess of the maximum lawful rate of interest permitted to be charged by any Laws. In the event Lender ever receives, collects or applies as interest any such excess, such amount which would be excessive interest shall be applied to reduce the unpaid principal balance of the Loan evidenced by the Note. If the unpaid principal balance of such Loan has been paid in full, any remaining excess shall be forthwith returned to Borrower.

22. BANKRUPTCY, REORGANIZATION OR ASSIGNMENT. It shall be an Event of Default hereunder if Borrower or any of its respective general partners or managing members shall: (a) elect to dissolve or liquidate its business organization or wind up its business affairs without receiving the prior written approval of Lender; (b) consent to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets; (c) be adjudicated as bankrupt or insolvent, or file a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they become due; (d) make a general assignment for the benefit of creditors; (e) file a petition under or take advantage of any insolvency law; (f) file an answer admitting the material allegations of a petition filed against Borrower in any bankruptcy, reorganization or insolvency proceeding or petition or request for the appointment of a receiver, or fail to cause the dismissal of such petition within ninety (90) days after the filing of said petition; (g) take action for the purpose of effecting any of the foregoing; or (h) if any order, judgment or decree shall be entered upon an application of a creditor of Borrower by a court of competent jurisdiction approving a petition seeking appointment of a receiver or trustee of all or a substantial part of such party's assets and such order, judgment or decree shall continue unstayed and in effect for a period of ninety (90) days.

23. TIME IS OF THE ESSENCE; MONETARY AND NON-MONETARY DEFAULTS. It is understood by Borrower that time is of the essence hereof in connection with all obligations of Borrower herein and any of the other Loan Documents.

During the continuance of an Event of Default, Lender, at its sole option, may declare the Loan, as well as all other monies secured or evidenced hereby or by any of the other Loan Documents, including, without limitation, all Prepayment Premiums (to the extent permitted by the Laws of the State) and late payment charges, to be in default and forthwith due and payable. As used herein, the term "Event of Default" shall mean:

(a) Borrower's failure to pay any monthly installment of the Note, whether of principal or interest, or both, or in the payment of any other sums of money referred to herein or in the Note or in any of the other Loan Documents, promptly and fully when the same shall be due, without notice or demand from Lender to Borrower in regard to such Monetary Default, Lender having given Borrower Written Notice of such Monetary Default and (i) a five (5) day period after the date of such Written Notice within which to cure a Monetary Default related to any monthly payment of debt service and (ii) a ten (10) day period after the date of such Written Notice within which to cure any other Monetary Default; provided, however, that Borrower shall not be entitled to any Written Notice or any cure period more than one (1) time per Loan Year (as defined in the Note), the second such Monetary Default in such Loan Year constituting an Event of Default without any grace period, and provided further that, in connection with each Monetary Default, Lender may collect a late payment charge as set forth in Section 4 of the Note.

(b) Borrower's breach of or default under any of the terms, covenants, conditions and agreements of the Note, this Mortgage or any other Loan Documents; or in the event that each and every one of said terms, covenants, conditions and agreements is not otherwise either duly, promptly and fully discharged or performed, and any such Non-Monetary Default (as hereinafter defined)

remains uncured for a period of thirty (30) days after Written Notice thereof has been delivered from Lender to Borrower; unless such Non-Monetary Default cannot be cured within said thirty (30)-day period, in which event Borrower shall have a reasonable period of time to complete cure, provided that action to cure such Non-Monetary Default is promptly commenced within said thirty (30)-day period, and Borrower is, in Lender's commercially reasonable judgment, not diminishing or impairing the value of the Property and is diligently pursuing a cure to completion, but in no event longer than one hundred twenty (120) days.

(c) Any representation or warranty of Borrower or of its members, general partners, principals, affiliates, agents or employees made herein or in any other Loan Document, in any guaranty, or in any certificate, report, financial statement or other instrument or document furnished to Lender shall have been intentionally false or misleading in any material respect when made. Lender shall provide Written Notice to Borrower (but no cure period) with respect to the forgoing.

(d) Any seizure or forfeiture of the Property, or any portion thereof, or Borrower's interest therein, resulting from criminal wrongdoing or other unlawful action of Borrower or its affiliates under any federal, state or local law. Lender shall provide Written Notice to Borrower (but no cure period) with respect to the forgoing.

(e) If Borrower consummates a transaction which would cause this Mortgage or Lender's exercise of its rights under this Mortgage, the Note or the other Loan Documents to constitute a nonexempt prohibited transaction under ERISA or result in a violation of a state statute regulating governmental plans, subjecting Lender to liability for a violation of ERISA or a state statute. Lender shall provide Written Notice to Borrower (but no cure period) with respect to the forgoing.

(f) Any default occurs in the performance of any covenant or obligation of Borrower under any indemnity or guaranty delivered to Lender in connection with the Loan and such default continues beyond the expiration of applicable notice and cure periods. Lender shall provide Written Notice to Borrower (but no cure period) with respect to the forgoing.

Upon the occurrence of any one of the above events, and at the option of Lender, the principal of and the interest accrued on the Loan and all other sums secured by this Mortgage and the other Loan Documents shall immediately become due and payable as if all of said sums of money were originally stipulated to be paid on such day. In addition, Lender may avail itself of all rights and remedies provided by law or equity, and may foreclose or prosecute a suit at law or in equity as if all monies secured hereby had matured prior to its institution, anything in this Mortgage or any of the other Loan Documents to the contrary notwithstanding. Except as expressly provided herein, Lender shall have no obligation to give Borrower notice of, or any period to cure, any Monetary Default or any Incurable Default (as hereinafter defined) prior to exercising its rights, powers, privileges and remedies.

As used herein, the term "Monetary Default" shall mean any default which can be cured by the payment of money such as, but not limited to, the payment of principal and interest due under the Note, or the payment of taxes, assessments and insurance premiums when due as provided in this Mortgage. As used herein, the term "Non-Monetary Default" shall mean any default that is not a Monetary Default or an Incurable Default. As used herein, the term "Incurable Default" shall mean either: (i) any voluntary or involuntary sale, assignment, mortgaging, encumbering or transfer of the Property or ownership interests in Borrower in violation of the covenants contained herein or any of the other Loan Documents; or (ii) if Borrower should breach any of the provisions of Section 22 of this Mortgage.

The failure or omission on the part of Lender to exercise the option for acceleration of maturity of the Note and foreclosure of this Mortgage during the continuance of any Event of Default as aforesaid or to exercise any other option or remedy granted hereunder to Lender when entitled to do so in any one or more instances, or the acceptance by Lender of partial payment of the Loan, whether before or subsequent to an Event of Default hereunder, shall not constitute a waiver of any such Event of Default or the right to exercise any such option or remedy, but such option or remedy shall remain continuously in force. Acceleration of the maturity of the Note, once claimed hereunder by Lender, at the option of Lender, may be rescinded by written acknowledgment to that effect by Lender, but the tender and acceptance of partial payments alone shall not in any way either affect or rescind such acceleration of maturity, nor act as a waiver, accord and satisfaction, modification, novation or similar defense.

24. FORECLOSURE. During the continuance of an Event of Default hereunder, Lender may institute an action to foreclose this Mortgage as to the amount so declared due and payable, and thereupon the Property (or any portion thereof) shall be sold according to law to satisfy and pay the same, together with all costs, expenses and allowances thereof, including, without limitation, Reasonable Attorneys' Fees. The Property may be sold in one parcel, several parcels or groups of parcels, and Lender shall be entitled to bid at the sale and, if Lender is the highest bidder for the Property or any part or parts thereof, Lender shall be entitled to purchase the same.

If, following the acceleration of the Note but prior to the foreclosure of this Mortgage against the Property, Borrower shall tender to Lender payment of an amount sufficient to pay the entire secured indebtedness, such tender shall be deemed to be a voluntary prepayment under the Note and, consequently, Borrower shall also pay to Lender any Prepayment Premium (to the extent permitted by the Laws of the State) required under the Note to be paid in order to prepay principal and, if such principal payment is made during any period when prepayment is prohibited by this Mortgage or the Note, the applicable charge or Prepayment Premium (to the extent permitted by the Laws of the State) shall be the maximum Prepayment Premium provided for in the Note; provided, however, that in no event shall any amount payable under this Section or any other Section relating to Prepayment Premiums or otherwise, when added to the interest otherwise payable on the Note and the other secured indebtedness, exceed the maximum interest permitted under applicable law.

25. UCC REMEDIES. During the continuance of an Event of Default, Lender may exercise its rights of enforcement with respect to the Fixtures and Personal Property under the UCC, and in conjunction with, in addition to or in substitution for those rights and remedies:

(a) Written Notice mailed to Borrower as provided herein ten (10) days prior to the date of public sale of the Fixtures and Personal Property or prior to the date after which private sale of the Fixtures and Personal Property will be made shall constitute reasonable notice;

(b) any sale made pursuant to the provisions of this Section shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with the sale of the Property under power of sale as provided herein upon giving the same notice with respect to the sale of the Fixtures and Personal Property hereunder as is required for such sale of the Property under power of sale;

(c) in the event of a foreclosure sale, whether made under the terms hereof or under judgment of a court, the Fixtures and Personal Property and the Property may, at the option of Lender, be sold as a whole;

(d) it shall not be necessary that Lender take possession of the Fixtures and Personal Property or any part thereof prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that the Fixtures and Personal Property or any part thereof be present at the location of such sale;

(e) prior to application of proceeds of disposition of the Fixtures and Personal Property to the secured indebtedness, such proceeds shall be applied to the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like, and the Reasonable Attorneys' Fees and other legal expenses incurred by Lender;

(f) any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to nonpayment of the indebtedness or as to the continuance of any Event of Default, or as to Lender having declared all of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, or as to any other act or thing having been duly done by Lender, shall be taken as prima facie evidence of the truth of the facts so stated and recited;

(g) Lender 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 Lender, including the sending of notices and the conduct of the sale, but in the name and on behalf of Lender; and

(h) this Mortgage covers Goods which are or are to become Fixtures related to the Real Property, and covers As-Extracted Collateral related to the Real Property. 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. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records in the Office of the County Clerk where the Property (including said fixtures) is situated. This Mortgage shall also be effective as a financing statement with respect to all As-Extracted Collateral included within the Real Property (including, without limitation, all oil, gas, other minerals, and other substances of value which may be extracted from the earth and all accounts arising out of the sale at the wellhead or minehead thereof), and is to be filed for record in the real estate records of the county where the Property is situated. The mailing address of Borrower is set forth in Section 43 of this Mortgage and the address of Lender from which information concerning the security interest may be obtained is the address of Lender set forth in Section 43 of this Mortgage.

26. PROTECTION OF LENDER'S SECURITY. Borrower shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Borrower for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Borrower further waives and releases (a) all errors, defects and imperfections in any proceedings instituted by Lender under the Note, this Mortgage or any of the other Loan Documents; (b) all benefits that might accrue to Borrower by virtue of any present or future laws exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale under civil process, or extension, exemption from civil process or extension of time for payment; and (c) all notices not specifically required by this Mortgage of Event of Default, or of Lender's exercise, or election to exercise, any option under this Mortgage. At any time after the occurrence of an Event of Default hereunder, Lender,

or Lender's agents or contractors, is authorized, without notice and in Lender's sole discretion, to enter upon and take possession of the Property or any part thereof, and to perform any acts which Lender deems necessary or proper to conserve the security interest herein intended to be provided by the Property, to operate any business or businesses conducted thereon, and to collect and receive all Rents thereof and therefrom, including those past due as well as those accruing thereafter.

27. APPOINTMENT OF RECEIVER. If, during the continuance of an Event of Default hereunder, Lender deems, in Lender's sole discretion, that a receivership may be necessary to protect the Property or its Rents, whether before or after maturity of the Note and whether before or at the time of or after the institution of foreclosure or suit to collect the Loan or to enforce this Mortgage or any of the other Loan Documents, Lender, as a matter of strict right and regardless of the value of the Property or the amounts due hereunder or secured hereby, or of the solvency of any party bound for the payment of such indebtedness, shall have the right, upon ex parte application and without notice to anyone, and by any court having jurisdiction, to the appointment of a receiver to take charge of, manage, preserve, protect and operate the Property, to collect the Rents thereof, to make all necessary and needful repairs, and to pay all taxes, assessments, insurance premiums and other such charges against and expenses of the Property, and to do such other acts as may by such court be authorized and directed, and after payment of the expenses of the receivership and the management of the Property, to apply the net proceeds of such receivership in reduction of the Loan or in such other manner as the said court shall direct notwithstanding the fact that the amount owing thereon may not then be due and payable or the said Loan is otherwise adequately secured. Such receivership shall, at the option of Lender, continue until full payment of all sums hereby secured or until title to the Property shall have passed by sale under this Mortgage. Borrower hereby specifically waives its right to object to the appointment of a receiver as aforesaid and hereby expressly agrees that such appointment shall be made as an admitted equity and as a matter of absolute right to Lender.

28. RIGHTS AND REMEDIES CUMULATIVE; FORBEARANCE NOT A WAIVER. The rights and remedies herein provided are cumulative, and Lender, as the holder of the Note and of every other obligation secured hereby, may recover judgment thereon, issue execution therefor and resort to every other right or remedy available at law or in equity, without first exhausting any right or remedy available to Lender and without affecting or impairing the security of any right or remedy afforded hereby, and no enumeration of special rights or powers by any provisions hereof shall be construed to limit any grant of general rights or powers, or to take away or limit any and all rights granted to or vested in Lender by law or equity. Borrower further agrees that no delay or omission on the part of Lender to exercise any rights or powers accruing to it hereunder shall impair any such right or power, or shall be construed to be a waiver of any such Event of Default hereunder or an acquiescence therein; and every right, power and remedy granted herein or by law or equity to Lender may be exercised from time to time as often as Lender deems expedient.

Lender may resort to any security given by this Mortgage or to any other security now existing or hereafter given to secure the payment of the Loan, in whole or in part, and in such portions and in such order as may seem best to Lender in its sole discretion, and any such action shall not be considered as a waiver of any of the rights, benefits, liens or security interests evidenced by this Mortgage. To the full extent Borrower may do so, Borrower agrees that Borrower will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force pertaining to the rights and remedies of sureties or providing for any appraisement, valuation, stay, extension or redemption, and Borrower, for Borrower and Borrower's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Property, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisement, stay of execution, notice of intention to mature or declare due the whole of the Loan, notice

of election to mature or declare due the whole of the Loan and all rights to a marshaling of the assets of Borrower, including the Property, or to a sale in inverse order of alienation in the event of foreclosure of the liens and security interests hereby created. Borrower shall not have or assert any right under any statute or rule of law pertaining to the marshaling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents or other matters whatever to defeat, reduce or affect the right of Lender under the terms of this Mortgage to a sale of the Property for the collection of the Loan without any prior or different resort for collection, or the right of Lender under the terms of this Mortgage to the payment of such indebtedness out of the proceeds of sale of the Property in preference to every other claimant whatever. If any law referred to in this Section and now in force, of which Borrower or Borrower's heirs, devisees, representatives, successors and assigns and such other persons claiming any interest in the Property 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. Notwithstanding the existence of any other liens or security interests or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which the indebtedness secured hereby is satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Mortgage and any party who now or hereafter acquires a lien or security interest in the Property and who has actual or constructive notice of this Mortgage hereby expressly waives and relinquishes any and all rights to demand or require the marshaling of liens or the marshaling of assets by Lender in connection with the exercise of any of the remedies provided herein or permitted by applicable law. Borrower expressly waives and relinquishes any and all rights and remedies Borrower may have or be able to assert by reason of laws relating to the rights and remedies of sureties or guarantors.

29. MODIFICATION NOT AN IMPAIRMENT OF SECURITY. Lender, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior mortgages, deeds of trust, or other liens thereon, may release any part of the security described herein or may release any person or entity liable for the Loan without in any way affecting the priority of this Mortgage, to the full extent of the Loan remaining unpaid hereunder, upon any part of the security not expressly released. Lender may, at its option and within Lender's sole discretion, also agree with any party obligated on the Loan or having any interest in the security described herein, to extend the time for payment of any part or all of the Loan, and such agreement shall not, in any way, release or impair this Mortgage, but shall extend the same as against the title of all parties having any interest in said security, which interest is subject to this Mortgage.

30. PROPERTY MANAGEMENT AND LEASING. The exclusive manager of the Property shall be Borrower, Casto Southeast Realty Services LLC, or such other exclusive manager as may be first approved in writing by Lender, not to be unreasonably withheld, conditioned or delayed. The exclusive leasing agent of the Property, shall be Jeffrey R. Anderson Real Estate, Inc., or Casto Southeast Realty Services LLC, or such other leasing agent as may be first approved in writing by Lender, not to be unreasonably withheld, conditioned or delayed. The maximum property management fee shall be four percent (4%) of gross revenues from the Property. The management and leasing contracts (or in the absence of any such written contract, a letter so stating and further identifying the name of the person or entity charged with the responsibility for managing and/or leasing the Property) shall be subordinate to this Mortgage, and satisfactory to and subject to the prior written approval of Lender, not to be unreasonably withheld, conditioned or delayed, throughout the term of the Loan. The subordination of the management and/or leasing agreement(s) shall give Lender the right to terminate such management and/or leasing agreement(s) during the continuance of an Event of Default under the Loan Documents or for fraud or willful misconduct by the manager or leasing agent. Notwithstanding the foregoing, provided no Event of Default has occurred and is continuing, any property

manager or leasing agent approved by J.P. Morgan Investment Management shall be deemed satisfactory to Lender.

31. MODIFICATION NOT A WAIVER. In the event Lender (a) releases, as aforesaid, any part of the security described herein or any person or entity liable for the Loan; (b) grants an extension of time for the payment of the Note; (c) takes other or additional security for the payment of the Note; or (d) waives or fails to exercise any rights granted herein, in the Note or any of the other Loan Documents, any said act or omission shall not release Borrower, subsequent purchasers of the Property or any part thereof from any obligation or any covenant of this Mortgage, the Note or any of the other Loan Documents, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any other Event of Default then made or any subsequent Event of Default.

32. TRANSFER OF PROPERTY OR CONTROLLING INTEREST IN BORROWER; ASSUMPTION.

(a) Except as expressly set forth in this Section 32 and Section 38(b) hereof, and except for the Permitted Exceptions, Occupancy Leases and any mechanics' liens and tax liens as may be permitted under the terms of the Loan Documents, without the prior written consent of Lender, the sale, transfer, assignment or conveyance of all or any portion of the Property, or the transfer, assignment or conveyance of a controlling interest in Borrower or its general partner or managing member, whether voluntary or by operation of law, without the prior written consent of Lender, shall constitute an Event of Default hereunder, and entitle Lender, at Lender's sole option, to accelerate all sums due on the Note, together with any Prepayment Premiums (to the extent permitted by the Laws of the State), late payment charges or any other amounts secured hereby. Lender may, however, elect to waive the option to accelerate granted hereunder if, prior to any such sale, transfer, assignment or conveyance of the Property, the following conditions shall be fully satisfied: (i) Lender acknowledges in writing that, in Lender's sole discretion, the creditworthiness of the proposed transferee and the ability and experience of the proposed transferee to operate the Property are satisfactory to Lender; (ii) Lender and the proposed transferee shall enter into an agreement in writing that (1) the rate of interest payable on the Loan shall be at such rate as Lender shall determine, (2) the repayment schedule as set forth in the Note shall be modified by Lender, in Lender's sole discretion, to initiate amortization or modify the existing amortization schedule in order to amortize the then remaining unpaid principal balance of the Note over a period of time as determined by Lender, in Lender's sole discretion, without a change in the maturity date of the Note, and (3) the proposed transferee acquiring title to the Property shall assume all obligations of Borrower under the Note, this Mortgage and the other Loan Documents in writing and an assumption fee, to be determined by Lender in Lender's sole discretion (not to exceed one percent (1%) of the outstanding principal balance of the Note), may be charged by Lender; (iii) Lender shall receive, for Lender's review and approval, copies of all transfer documents; (iv) Borrower or the transferee shall pay all actual and reasonable out-of-pocket costs and expenses in connection with such transfer and assumption, including, without limitation, all fees and expenses incurred by Lender; (v) no Event of Default, or event which, with notice or the passage of time or both, could result in an Event of Default, has occurred hereunder or under any of the other Loan Documents; and (vi) any other rental achievement threshold required in the Application or the Loan Documents has been satisfied.

(b) Borrower, or any subsequent owner of the Property or any portion thereof, shall do all things necessary to preserve and keep in full force and effect its and their legal existence, franchises,

rights and privileges as a corporation, partnership or limited liability company, as the case may be, under the Laws of the state of its formation and its right to own property and transact business in the State. Neither Borrower nor any subsequent owner of the Property or any portion thereof, shall amend, modify, transfer, assign or terminate the applicable governing documents for such entity, including its partnership agreement, certificate of partnership, operating agreement, articles of organization, regulations, articles of incorporation or bylaws, as the case may be (as applicable, the "Governing Documents"), of Borrower or such subsequent owner without the prior written consent of Lender. Borrower, or such subsequent owner of the Property, shall provide Lender with copies of any proposed amendment to its applicable Governing Documents, so that Lender may, in Lender's sole discretion, determine whether such amendment adversely affects Lender, the Property or the security value thereof. Provided, however, that any amendment, modification, transfer, assignment or termination of Borrower's applicable Governing Documents or any other action pursuant to which the current general partner or managing member of Borrower shall either: (i) cease to be the general partner or managing member of Borrower; or (ii) cease to own or maintain a partnership or membership interest in Borrower equal to or greater than its partnership or membership interest at the time this Mortgage is executed, shall be deemed to have a material adverse effect upon Lender and the Property, and shall be an Event of Default hereunder.

(c) Borrower shall not change its name or identity in any manner which may make any financing or continuation statement filed in connection with the Loan seriously misleading within the meaning of Section 9-506 of the UCC (or any other applicable portion of the UCC) enacted in the State or change its jurisdiction of organization unless Borrower shall have delivered to Lender Written Notice thereof not less than thirty (30) days before the effective date of such change and shall have taken all action which Lender determines to be reasonably necessary or desirable to confirm and protect Lender's liens, security interests and rights under this Mortgage and the perfection and priority thereof. Borrower will not change its principal places of business unless it shall have given Lender prior Written Notice of its intent to do so not less than thirty (30) days in advance of the effective date of such change. Borrower shall bear all costs incurred by Lender in connection with any such change including, without limitation, Reasonable Attorneys' Fees.

(d) In the event the ownership of the Property, or any part thereof, shall become vested in a person or entity other than Borrower, whether with or without the prior written consent of Lender, Lender may, without notice to Borrower, deal with such successor or successors in interest with reference to the Property, this Mortgage and the other Loan Documents, in the same manner and to the same extent as with Borrower without in any way vitiating or discharging Borrower's liability hereunder or under any of the Loan Documents. No sale, transfer or conveyance of the Property, no forbearance on the part of Lender and no extension of time given by Lender to Borrower for the payment of the Note shall operate to release, discharge, modify, change or affect the original liability of Borrower, either in whole or in part, unless expressly set forth in writing executed by Lender. Notwithstanding anything contained herein to the contrary, Borrower hereby waives any right it now has or may hereafter have to require Lender to prove an impairment of its security as a condition to the exercise of Lender's rights under this Section 32.

(e) A sale, transfer, assignment or conveyance within the meaning of this Section shall be deemed to include, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a tenant under an Occupancy Lease 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 leases or any Rents; (iii) if Borrower, any general

partner or managing member of Borrower or any general partner of any general partner or managing member of Borrower, is a corporation, the voluntary or involuntary sale, conveyance, transfer or pledge of such corporation's stock (or the stock of any corporation directly or indirectly controlling such corporation by operation of law or otherwise), or the creation or issuance of new stock by which an aggregate of more than ten percent (10%) of such corporation's stock shall be vested in a party or parties who are not now stockholders; and (iv) if Borrower or any general partner or managing member of Borrower, is a limited partnership, general partnership, limited liability partnership, limited liability company or joint venture, the change, removal or resignation of a general partner, managing partner or managing member, or the transfer or pledge of the interest of any general partner, managing partner or managing member or any profits or proceeds relating to such interest.

33. FURTHER ENCUMBRANCE PROHIBITED; SUBROGATION. So long as the Note remains unpaid, Borrower shall not, either voluntarily or involuntarily: (i) permit the Property or any part thereof to become subject to any secondary or subordinate lien, mortgage, deed of trust, security interest or encumbrance of any kind whatsoever, or (ii) permit the encumbrance, including mezzanine financing, of any direct interest in Borrower, without the prior written consent of Lender, and any such imposition of any secondary lien, mortgage, including mezzanine financing, deed of trust, security interest or encumbrance without the approval of Lender shall constitute an Event of Default hereunder, and entitle Lender, at Lender's sole option, to declare the outstanding principal balance of the Note, all accrued and unpaid interest thereon, Prepayment Premiums (to the extent permitted by the Laws of the State), late payment charges and any other amounts secured hereby to be and become immediately due and payable in full. In the event that Lender shall hereafter give its written consent to the imposition of any such secondary lien, mortgage, deed of trust, security interest or other encumbrance upon the Property or any direct interest in Borrower, then Lender, at Lender's sole option, shall be entitled to accelerate the maturity of the Note and exercise any and all remedies provided and available to Lender hereunder and in the other Loan Documents in the event that the holder of any such secondary lien or encumbrance shall institute foreclosure or other proceedings to enforce the same; it being understood and agreed that an Event of Default under any instrument or document evidencing, securing or secured by any such secondary lien or encumbrance shall be and constitute an Event of Default hereunder. In the event all or any portion of the proceeds of the Loan are used for the purpose of retiring debt or debts secured by prior liens on the Property, Lender shall be subrogated to the rights and lien priority of the holder or holders of the lien or liens so discharged.

34. CONVEYANCE OF MINERAL RIGHTS PROHIBITED. Borrower agrees that the making of any oil, gas or mineral lease, or the sale or conveyance of any mineral interest or right to explore for minerals under, through or upon the Property, would impair the value of the Property, and that Borrower shall have no right, power or authority to lease the Property, or any part thereof, for oil, gas or other mineral purposes, or to grant, assign or convey any mineral interest of any nature, or the right to explore for oil, gas and other minerals, without first obtaining Lender's express written permission therefor, which permission shall not be valid until recorded among the Public Records of Hamilton County, in the State. Borrower further agrees that if Borrower shall make, execute, or enter into any such lease or attempt to grant any such mineral rights without such prior written permission of Lender, then Lender shall have the option, without notice, to declare the same to be an Event of Default hereunder, and to declare the Loan immediately due and payable in full. Whether or not Lender shall consent to such lease or grant of mineral rights, Lender shall receive the entire consideration to be paid for any such lease or grant of mineral rights, with the same to be applied to the Loan notwithstanding the fact that the amount owing thereon may not then be due and payable or that the Loan is otherwise adequately secured; provided, however, that the acceptance of such consideration shall in no way impair the lien of this Mortgage on the Property or cure any existing Monetary Default.

35. ESTOPPEL CERTIFICATION BY BORROWER. Borrower, upon request of Lender therefor made not more frequently than two (2) times in any calendar year unless an Event of Default has occurred, either personally or by mail, shall certify in writing to Lender (or any party designated by Lender), in a form reasonably satisfactory to Lender or such designee, the amount of principal and interest then outstanding under the terms of the Note and any other sums due and owing under this Mortgage or any of the other Loan Documents, and whether, to Borrower's actual knowledge, any offsets or defenses exist against the Loan. Such certification shall be made by Borrower within ten (10) days if the request is made personally or within twenty (20) days if the request is made by mail.

36. CROSS-DEFAULT. The Note is also secured by the terms, conditions and provisions of the Assignment and, additionally, may be secured by contracts or agreements of guaranty or other security instruments. The terms, covenants, conditions and agreements of each security instrument shall be considered a part hereof as fully as if set forth herein verbatim. Any Event of Default under this Mortgage or any of the other Loan Documents shall constitute an Event of Default hereunder and under each of the other Loan Documents. Notwithstanding the foregoing, the enforcement or attempted enforcement of this Mortgage or any of the other Loan Documents now or hereafter held by Lender shall not prejudice or in any manner affect the right of Lender to enforce any other Loan Document; it being understood and agreed that Lender shall be entitled to enforce this Mortgage and any of the other Loan Documents now or hereafter held by it in such order and manner as Lender, in its sole discretion, shall determine.

37. EXAMINATION OF BORROWER'S RECORDS. Borrower will maintain complete and accurate books and records showing in detail the income and expenses of the Property, and from time to time upon request by Lender, will permit Lender and its agents, contractors or representatives to examine said books and records and all supporting vouchers and data during normal business hours and upon reasonable prior notice, in such place as such books and records are customarily kept. Borrower shall furnish to Lender, within one hundred twenty (120) days after the close of each respective fiscal period, unaudited annual and semi-annual financial statements, including income statements and balance sheets for Borrower, the Property and all Major Tenants (if required under the Major Tenant Occupancy Leases or if such financial information is otherwise available to Borrower). These statements shall be in form reasonably acceptable to Lender, shall be prepared in accordance with modified accrual basis accounting, shall include a rent roll, certified as true and correct by Borrower and include the most current annual sales figures for the Property and all Major Tenants of the Property (if required under the Major Tenant Occupancy Leases or if such financial information is otherwise available to Borrower). These statements shall be certified as being complete, correct and accurate by Borrower or an authorized representative of Borrower. In the event Borrower fails to provide such statements to Lender within the time prescribed above, Borrower shall pay Lender the sum of Two Hundred Dollars (\$200) in administrative expenses for each successive month or partial month beyond the one hundred twenty (120) day period for which the statements are delinquent. During the continuance of an Event of Default hereunder, Lender shall have the right to require that said financial statements of Borrower be audited and certified by a certified public accountant acceptable to Lender, at the sole cost and expense of Borrower.

At the request of Lender, but under no circumstances more often than once a quarter or more than three (3) times during the term of the Loan (provided no Event of Default has occurred and is continuing under the Loan Documents), Borrower shall furnish to Lender (a) unaudited financial statements (balance sheet, income statement, cash flow statement and current rent roll) covering operation of the Property for periods other than those set forth in the preceding paragraph; (b) unaudited financial statements (balance sheets, income statements, and cash flow statements) for Borrower; and (c) a portfolio analysis showing annualized cash flow statements (including debt service payments) for all real properties owned by Borrower. In addition, at the request of Lender but under no circumstances more often than once a quarter during the

term of the Loan (provided no Event of Default has occurred and is continuing) Borrower shall furnish to Lender a current rent roll for the Property. All such statements and rent rolls shall be certified to Lender to be complete, correct, and accurate by the individual for an individual's statements or by an authorized representative of the entity if the statements are for a partnership, corporation or limited liability company or other such entity.

38. ALTERATION, REMOVAL AND CHANGE IN USE OF PROPERTY PROHIBITED.

Borrower covenants and agrees to permit or suffer none of the following without the prior written consent of Lender:

(a) Any structural alteration of, or addition to, the Improvements now or hereafter situated upon the Real Property, or the addition of any new buildings or other structure(s) thereto, other than the erection or removal of non-load bearing interior walls or alterations required by the terms of Occupancy Leases which have been approved by Lender or which are not subject to Lender's review, comment and approval; or

(b) The removal, transfer, sale or lease of the Fixtures and Personal Property, except that the renewal, replacement, substitution or removal of broken, obsolete or worn out Fixtures and Personal Property may be made in the normal course of business, provided, however, that each Fixture or item of Personal Property that is not broken, obsolete or worn-out shall be replaced or substituted with items of like or better quality, value and utility as the removed items; or

(c) The use of any of the Improvements now or hereafter situated on the Real Property for any purpose other than the Existing Use and related facilities.

39. FUTURE ADVANCES SECURED. This Mortgage shall secure not only existing indebtedness, but also future advances, whether such advances are obligatory or to be made at the option of Lender. Upon the request of Borrower, and at Lender's option prior to release of this Mortgage, Lender may make future advances to Borrower. All future advances with interest thereon shall be secured by this Mortgage to the same extent as if such future advances were made on the date of the execution of this Mortgage unless the parties shall agree otherwise in writing, but the total secured indebtedness shall not exceed at any one time a maximum principal amount equal to double the face amount of the Note plus interest and costs of collection, including court costs and Reasonable Attorneys' Fees. Any advances or disbursements made for the benefit or protection of or the payment of taxes, assessments, levies or insurance upon the Property, with interest on such disbursements as provided herein, shall be added to the principal balance of the Note and collected as a part thereof. To the extent that this Mortgage may secure more than one note, a default in the payment of any such note shall constitute a default in the payment of all such notes.

40. EFFECT OF SECURITY AGREEMENT. Borrower agrees to, and shall upon the request of Lender, execute and deliver to Lender, in form and content satisfactory to Lender, such financing statements, descriptions of property and such further assurances as Lender, in Lender's sole discretion, may from time to time consider necessary to create, perfect, continue and preserve the lien and encumbrances hereof, and the security interest granted herein, upon and in the Property; provided, however, that no such further assurance increases Borrower's obligations or liabilities under the Loan Documents or decreases Borrower's rights under the Loan Documents. Without the prior written consent of Lender, Borrower shall not create or suffer to be created, pursuant to the UCC, any other security interest in such real and personal property and fixtures described herein. During the continuance of an Event of Default hereunder or Borrower's breach of any other covenants or agreements between the parties entered into in conjunction herewith, Lender shall have the remedies of a secured party under the UCC as provided in Section 25, and at Lender's option, the remedies provided for in this Mortgage and the other Loan Documents. Lender, at the expense of Borrower, may cause

such statements, descriptions and assurances, as herein provided in this Section 40, and this Mortgage, to be recorded and re-recorded, filed and refiled, at such times and in such places as may be required or permitted by law to so create, perfect and preserve the lien and encumbrance hereof upon all of the Property.

41. TERMS OF APPLICATION SURVIVE CLOSING. Intentionally Omitted.

42. SUCCESSORS AND ASSIGNS; TERMINOLOGY.

(a) The provisions hereof shall be binding upon Borrower and the heirs, personal representatives, trustees, successors and assigns of Borrower, and shall inure to the benefit of Lender, its successors and assigns. Where more than one Borrower is named herein, the obligations and liabilities of said Borrower shall be joint and several.

(b) Wherever used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein: (i) the word "Borrower" shall mean Borrower and/or any subsequent owner or owners of the Property; (ii) the word "Lender" shall mean Lender or any subsequent holder or holders of this Mortgage; (iii) the word "Note" shall mean the Note(s) secured by this Mortgage; and (iv) the word "person" shall mean an individual, trustee, trust, corporation, partnership, limited liability company, limited liability partnership, joint venture or unincorporated association. As used herein, the phrase "Reasonable Attorneys' Fees" shall mean fees charged by attorneys selected by Lender based upon such attorneys' then prevailing hourly rates as opposed to any statutory presumption specified by any statute then in effect in the State. As used herein words of any gender shall include all other genders.

43. NOTICES. All notices, reports, requests or other written instruments required or permitted hereunder shall be in writing, signed by the party giving or making the same, and shall be sent hand-delivered, effective upon receipt, sent by United States Express Mail or by a nationally recognized overnight courier, effective upon receipt, or sent by United States registered or certified mail, postage prepaid, with return receipt requested, deemed effective on the earlier of the day of actual delivery as shown by the addressee's return receipt or the expiration of three (3) business days after the date of mailing, addressed to the party intended to receive the same at the address set forth below or at such other address as shall be given in writing by any party to another ("Written Notice"):

If to Borrower: CLP-SPF Rookwood Commons LLC
c/o Casto
250 Civic Center Drive, Suite 500
Columbus, Ohio 43215
Attention: Lisa Boveine

With a courtesy
copy to:

ROOKWOOD ACQUISITION COMPANY LLC
c/o J.P. Morgan Investment Management Inc.
270 Park Avenue
New York, NY 10017
Attention: Chris Potavin

With a courtesy
copy to:

STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, NY 10038
Attention: Brian Diamond, Esq.

If to Lender:

NATIONWIDE LIFE INSURANCE COMPANY
One Nationwide Plaza, Fifth Floor – MC 1-05-701
Columbus, Ohio 43215
Attention: Real Estate Investments

44. GOVERNING LAW; WAIVER OF JURY TRIAL; SEVERABILITY. THE PARTIES HERETO, TO THE FULL EXTENT PERMITTED BY LAW, EACH HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES HEREBY THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING, INCLUDING, WITHOUT LIMITATION, ANY TORT ACTION, AGAINST EACH OTHER, ITS SUCCESSORS AND ASSIGNS, BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO OR IN CONNECTION WITH ANY OF THE LOAN DOCUMENTS, THE LOAN OR ANY COURSE OF CONDUCT, ACT, OMISSION, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, ANY PARTY'S DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH SUCH PARTY), IN CONNECTION WITH THE LOAN OR THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, IN ANY COUNTERCLAIM WHICH ANY PARTY MAY BE PERMITTED TO ASSERT THEREUNDER, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. IN NO EVENT SHALL ANY PARTY, ITS SUCCESSORS, ASSIGNS OR PARTICIPANTS BE LIABLE FOR SPECIFIC PERFORMANCE, ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS PROFITS OR OPPORTUNITY) AND BY ITS EXECUTION HEREOF, BORROWER AND LENDER HEREBY WAIVE ANY RIGHT TO CLAIM OR SEEK ANY SUCH DAMAGES. This Mortgage and the rights and obligations of the parties hereunder shall be governed by, and construed in accordance with, the internal laws of the State, without regard to principles of conflicts of laws. The parties hereto irrevocably (a) agree that any suit, action or other legal proceeding arising out of or relating to this Mortgage may be brought in a court of record in the State or in the courts of the United States of America located in such State, (b) consent to the non-exclusive jurisdiction of each such court in any suit, action or proceeding, and (c) waive any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. If any clauses or provisions herein contained operate, or would prospectively operate, to invalidate this Mortgage, then such clauses or provisions only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect.

45. RIGHTS OF LENDER CUMULATIVE. The rights of Lender arising under the terms, covenants, conditions and agreements contained in this Mortgage shall be separate, distinct and cumulative, and none of them shall be in exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provisions, anything herein or otherwise to the contrary notwithstanding. If Borrower is comprised of more than one person or entity, then the liability of each such person and entity hereunder shall be joint and several.

46. MODIFICATIONS. This Mortgage cannot be changed, altered, amended or modified except by an agreement in writing and in recordable form, executed by both Borrower and Lender.

47. EXCULPATION. Notwithstanding anything contained herein to the contrary, the liability of Borrower is subject to the provisions contained in the Exculpation section of the Note, which are incorporated herein and made a part hereof by reference as if fully set forth herein.

48. FULL RECOURSE. Notwithstanding any provisions in this Mortgage to the contrary, including without limitation the provisions set forth in the section captioned "Exculpation" hereinabove, Borrower shall be personally liable for the entire indebtedness evidenced by this Mortgage (including all principal, interest and other charges) in the event (a) Borrower fails to obtain Lender's consent to any subordinate financing on the Property in violation of the Loan Documents; (b) Borrower or any entity comprising Borrower fails to obtain Lender's consent to any transfer of interests in the Property or transfers or changes in ownership or controlling interest as set forth in this Mortgage, in each case, in violation of the Loan Documents; (c) Borrower files a petition in bankruptcy under the U.S. Bankruptcy Code or other federal or state bankruptcy or insolvency law ("Bankruptcy Law") or for the appointment of a receiver or commences under any Bankruptcy Law proceedings for Borrower's relief or for the compromise, extension, arrangement or adjustment of Borrower's obligations; (d) there is a filing of an involuntary bankruptcy resulting from Borrower's breach of the Loan Documents or Borrower colludes in an involuntary bankruptcy proceeding filed against Borrower which is not dismissed within ninety (90) days after the filing of the same; (e) there is filed against Borrower any claim by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights Laws that is based on the Loan being deemed a preferential transfer; (f) in the event an Event of Default is then continuing under the Loan Documents and Borrower or any affiliate thereof challenges or disputes the validity or enforceability of any of the provisions of the Loan Documents, seeks to delay or impair the enforcement of Lender's remedial rights under the Loan Documents, or challenges the validity, enforceability or first priority of the liens and security interests securing payment of amounts owing or payable under the terms of the Loan Documents (unless prior to such challenge Borrower has either commenced turning over all revenue (including any security deposits) from the Property or Borrower has cooperated with the appointment of a receiver to preserve and protect the Property during the pendency of such challenge); or (g) Borrower violates any special purpose/ single asset provisions of the Loan Documents in material respects which violation results in a substantive consolidation of Borrower with any affiliate (other than Rookwood Holding Company LLC) in bankruptcy.

49. LENDER IS NOT A JOINT VENTURER OR PARTNER. Borrower and Lender acknowledge and agree that in no event shall Lender be deemed to be a partner or joint venturer with Borrower or any member of Borrower. Without limitation of the foregoing, Lender shall not be deemed to be a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document evidencing or securing any of the indebtedness secured hereby, or otherwise.

50. CAPTIONS. The captions set forth at the beginning of the various Sections of this Mortgage are for convenience only and shall not be used to interpret or construe the provisions of this Mortgage.

51. REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record along with an indemnification agreement in favor of Borrower that is reasonably satisfactory to Borrower and is executed by the holder of the Note, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower, at Lender's expense, will issue, in lieu thereof, a replacement Note or other Loan Document, 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.

52. SOLE DISCRETION OF LENDER. Wherever pursuant to this Mortgage Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide that arrangements or terms are satisfactory or not satisfactory shall be in the sole discretion of Lender and shall be final and conclusive, absent manifest error, except as may be otherwise expressly and specifically provided herein.

53. SECONDARY MARKET. Lender may, at any time, sell, transfer or assign the Note, this Mortgage, the Assignment and the other Loan Documents, and any or all servicing rights with respect thereto, or grant participations therein or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement. Lender may forward to each purchaser, transferee, assignee, servicer or participant (collectively, "Investor"), and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Loan and to Borrower and the Property, whether furnished by Borrower, or otherwise, as Lender determines necessary or desirable; provided, however, that any disclosure with regard to information of Borrower or any of its affiliates shall be made with due regard to the confidential nature of such information and any Investor and prospective Investor shall be informed of the confidential nature thereof.

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SIGNATURE PAGE
TO
OPEN-END MORTGAGE AND SECURITY AGREEMENT

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

BORROWER:

CLP – SPF ROOKWOOD COMMONS, LLC,
a Delaware limited liability company

By: **ROOKWOOD HOLDING COMPANY LLC,** a
Delaware limited liability company, its sole member

By: /s/ Don Casto
Name: Don Casto
Title: President

STATE OF FLORIDA:

: ss:

COUNTY OF SARASOTA:

Sworn to and acknowledged before me, a Notary Public in and for said state, by Don Casto, the President of ROOKWOOD HOLDING COMPANY LLC, a Delaware limited liability company, the sole member of CLP – SPF ROOKWOOD COMMONS, LLC, a Delaware limited liability company, for and on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunder subscribed my name and affixed my notarial seal on this 30 day of March, 2015.

/s/ Sheila S. Cowan
Notary Public

Prepared by and after recording
return to:

Marci L. Morgan Cox, Esq.
Dinsmore & Shohl LLP
255 E. Fifth Street, Suite 1900
Cincinnati, Ohio 45202

EXHIBIT A

Legal Description

Loan No. 00-1102014

OPEN-END MORTGAGE AND SECURITY AGREEMENT

This MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made and executed as of July 1, 2013, by **CLP – SPF ROOKWOOD PAVILION, LLC**, a Delaware limited liability company ("Borrower"), to and in favor of **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation, its successors and assigns ("Lender"), having its principal office at One Nationwide Plaza, Fifth Floor, Columbus, Ohio 43215, Attention: Real Estate Investments, or at such other place as Lender may from time to time designate.

WITNESSETH:

WHEREAS, Borrower is justly indebted to Lender in the original principal sum of \$29,000,000 with interest thereon (the "Loan"), which Loan is evidenced and represented by that certain Note of even date herewith (the "Note"), both principal and interest being payable as therein provided, and all amounts remaining unpaid thereon being finally due and payable on July 1, 2020, and the term "Note" shall include all other notes given in substitution, modification, increase, renewal or extension of the original Note described herein, in whole or in part; and

WHEREAS, Lender, as a condition precedent to the extension of credit and the making of the Loan has required that Borrower provide Lender with security for the repayment of the Loan as well as for the performance, observance and discharge by Borrower of various terms, covenants, conditions and agreements made by Borrower to, with, in favor of and for the benefit of Lender with respect to the Loan and such security;

NOW THEREFORE, in consideration of and in order to secure the repayment of the Loan evidenced and represented by the Note, together with interest on the Loan, as well as the payment of all other sums of money secured hereby, as hereinafter provided; to secure the observance, performance and discharge by Borrower of all terms, covenants, conditions and agreements set forth in the Note, this Mortgage and in the other Loan Documents (hereafter defined); in order to charge the properties, interests and rights hereinafter described with such payment, observance, performance and discharge; and in consideration of the sum of One and no/100 Dollars (\$1.00) paid by Lender to Borrower, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by Borrower, Borrower does hereby grant, mortgage, bargain, sell, convey, assign, transfer, pledge, deliver, hypothecate, warrant and confirm unto Lender forever, the following described properties, including all rights, interests, replacements, substitutions and additions thereto, therein or therefor:

- (i) All that certain piece, parcel or tract of land or real property of which Borrower is now seized and in actual or constructive possession, situated in the City of Cincinnati, County of Hamilton,

and State of Ohio (the "State"), and being more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the "Real Property");

(ii) All buildings, structures and other improvements of any kind, nature or description now or hereafter erected, constructed, placed or located upon the Real Property (the "Improvements"), including, without limitation, any and all additions to, substitutions for or replacements of such Improvements;

(iii) All minerals, royalties, gas rights, water, water rights, water stock, flowers, shrubs, lawn plants, crops, trees, timber and other emblements now or hereafter located on, under or above all or any part of the Real Property;

(iv) All and singular, the tenements, hereditaments, strips and gores, rights-of-way, easements, privileges, profits and other appurtenances now or hereafter belonging or in any way appertaining to the Real Property, including, without limitation, all right, title and interest of Borrower in any after-acquired right, title, interest, remainder or reversion in and to the beds of any ways, streets, avenues, roads, alleys, passages and public places, open or proposed, in front of, running through, adjoining or adjacent to the Real Property (the "Appurtenances");

(v) Any and all leases, licenses, contracts, rents, license fees, royalties, issues, revenues, profits, proceeds, deposits, income and other benefits, including accounts receivable, termination fees, of, accruing to or derived from the Real Property, Improvements and Appurtenances, and any business or enterprise presently situated or hereafter operated thereon and therewith and all of Borrower's interest under any and all lease guaranties, letters of credit, and any other credit support furnished to Borrower in connection with any of the foregoing, and including any and all amounts owed to Borrower under that certain Termination of Ground Lease and Re-Affirmation of Easement Agreement (the "Easement Agreement") dated September 9, 2003 by and between Rookwood Pavilion Limited Partnership, an Ohio limited partnership, Borrower's predecessor-in-interest, and Rookwood Commons LLC, an Ohio limited liability company (the "Rents");

(vi) Any and all awards, payments or settlements, including interest thereon, and the right to receive the same, as a result of: (a) the exercise of the right of eminent domain; (b) the alteration of the grade of any way, street, avenue, road, alley, passage or public place; (c) any other injury, damage, casualty or claim relating to the taking of, or decrease in the value of, the Real Property, Improvements or Appurtenances; or (d) proceeds of insurance awards, to the extent of all amounts which may be secured by this Mortgage at the date of any such award or payment including, but not limited to, Reasonable Attorneys' Fees (as hereinafter defined), costs and disbursements incurred by Lender in connection with the collection of such award or payment;

(vii) All fixtures, materials, equipment, machinery, apparatus, appliances, water taps and other property whatsoever now or hereafter attached to, installed in, or used in connection with the Improvements, including, but not limited to, furnaces, steam boilers, hot-water boilers, oil burners, pipes, radiators, air-conditioning and sprinkler systems, gas and electric fixtures, carpets, rugs, shades, awnings, screens, elevators, motors, dynamos, cabinets and all other furnishings, tools, equipment and machinery, appliances, building supplies, materials, and all fixtures, accessions and appurtenances thereto, and all renewals or replacements of or substitutions for any of the foregoing, all of which property and things are hereby declared to be permanent fixtures and accessions to the freehold and part of the realty conveyed herein as security for the indebtedness herein mentioned; and

(viii) All agreements or contracts relating to any interest rate cap agreements, swaps or other interest hedging agreements.

In order to secure the repayment of the Loan, together with interest on the Loan, as well as the payment of all other sums of money secured hereby, as hereinafter provided; and to secure the observance, performance and discharge by Borrower of all covenants, conditions and agreements set forth in the Note, this Mortgage and in the other Loan Documents; and in order to charge the properties, interests and rights hereinafter described with such payment, observance, performance and discharge; and in consideration of the sum of Ten and No/100 Dollars (\$10.00) paid by Lender and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby grants Lender a security interest in all Fixtures, Goods (including, without limitation, Consumer Goods, Inventory, Equipment and Farm Products), Accounts, Chattel Paper (including, without limitation, Electronic Chattel Paper and Tangible Chattel Paper), Instruments, General Intangibles (including, without limitation, Payment Intangibles and Software), Letters of Credit, Letter-of-Credit Rights, Documents, As-Extracted Collateral, Money and Deposit Accounts of every kind, and all proceeds thereof, including, without limitation, any and all licenses, permits, franchises, trademarks, trade names, service marks or logos, plans, specifications, maps, construction contracts, instruments, insurance policies, fittings and fixtures of every kind, which is, are or shall hereafter be located upon, attached, affixed to or used or useful, either directly or indirectly, in connection with the complete and comfortable use, occupancy and operation of the Real Property, Improvements or Appurtenances as a commercial retail development (the "Existing Use"), or any other business, enterprise or operation as may hereafter be conducted upon or with said Real Property, Improvements or Appurtenances, including, without limitation, any and all licenses, permits or franchises, used or required in connection with such use, occupancy or operation as well as the proceeds thereof or therefrom regardless of form, all security deposits and advance rentals under lease agreements now or at any time hereafter covering or affecting any of the Property (as hereinafter defined) and held by or for the benefit of Borrower, all monetary deposits which Borrower has been required to give to any public or private utility with respect to utility services furnished to the Real Property or Improvements, all rents, issues and profits from leases of all or any part of the Real Property or Improvements, all proceeds (including premium refunds) of each policy of insurance relating to the Real Property or Improvements, all proceeds from the taking of the Real Property or Improvements or any part thereof or any interest therein or right or estate appurtenant thereto by eminent domain or by purchase in lieu thereof, all amounts deposited in escrow for the payment of ad valorem taxes, assessments, charges, ground rentals and/or premiums for policies of insurance with respect to the Real Property or Improvements, all proceeds and other amounts paid or owing to Borrower under or pursuant to any and all contracts and bonds relating to the construction, erection or renovation of the Real Property or Improvements, all oil, gas and other hydrocarbons and other minerals owned by Borrower and produced from or allocated to the Real Property and all products processed or obtained therefrom, the proceeds thereof, and all accounts and general intangibles under which such proceeds may arise, together with any sums of money that may now or at any time hereafter become due and payable to Borrower by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and future oil, gas and mining leases covering the Real Property or any part thereof (collectively, the "Fixtures and Personal Property," which term expressly excludes any toxic waste or substance deemed hazardous under federal, regional, state or local laws, codes, ordinances, statutes, rules, regulations, decisions or orders). Borrower hereby expressly grants to Lender a present security interest in and a lien and encumbrance upon the Fixtures and Personal Property.

Except as otherwise expressly provided in this Mortgage, all terms in this Mortgage relating to the Property and the grant of the foregoing security interest which are defined in the Uniform Commercial Code of the State (the "UCC") shall have the meanings assigned to them in Article 9 (or, absent definition in Article 9, in any other Article) of the UCC, as those meanings may be amended, revised or replaced from

time to time. Notwithstanding the foregoing, the parties intend that the terms used herein which are defined in the UCC have, at all times, the broadest and most inclusive meanings possible. Accordingly, if the UCC shall in the future be amended or held by a court to define any term used herein more broadly or inclusively than the UCC in effect on the date of this Mortgage, then such term, as used herein, shall be given such broadened meaning. If the UCC shall in the future be amended or held by a court to define any term used herein more narrowly, or less inclusively, than the UCC in effect on the date of this Mortgage, such amendment or holding shall be disregarded in defining terms used in this Mortgage.

The Real Property, Improvements, Appurtenances, Rents, Fixtures and Personal Property and all other property of any kind described herein and in which Borrower has granted Lender a security interest are hereinafter collectively referred to as the "Property".

TO HAVE AND TO HOLD the foregoing Property and the rights hereby granted for its use and benefit unto Lender and its successors and assigns in fee simple forever.

Borrower hereby covenants and warrants with and to Lender that Borrower is indefeasibly seized of the Property and has good right, full power and lawful authority to convey and encumber all of the same as aforesaid; that Borrower hereby fully warrants the title to the Property and will defend the same and the validity and priority of the lien and encumbrance of this Mortgage against the lawful claims of all persons whomsoever; and Borrower further warrants that the Property is free and clear of all liens and encumbrances of any kind, nature or description, save and except only (with respect to said Real Property, Improvements and Appurtenances) for real property taxes for years subsequent to 2013 and those exceptions accepted by Lender as set forth in the title insurance commitment or proforma policy issued to Lender precedent to the issuance of a Loan Policy of Title Insurance insuring the first lien priority of this Mortgage (the "Permitted Exceptions").

PROVIDED ALWAYS, however that if Borrower shall pay to Lender the Loan and if Borrower shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every one of the terms, covenants, conditions and agreements of the Note, this Mortgage and all other Loan Documents (except those that either survive repayment of the Loan or are no longer of any force or effect by reason of repayment of the Loan), then this Mortgage and the estates and interests hereby granted and created shall cease, terminate and be null and void, and shall be discharged of record at the expense of Borrower.

Borrower, for the benefit of Lender and its successors and assigns, does hereby expressly covenant and agree as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall (i) pay the principal of the Loan, together with all interest thereon, in accordance with the terms, covenants and conditions of the Note, promptly at the times, at the place and in the manner that said principal and interest shall become due, and (ii) shall promptly and punctually pay all other sums required to be paid by Borrower pursuant to the terms, covenants and conditions of the Note, this Mortgage, the Assignment of Leases, Rents and Profits of even date herewith (the "Assignment") and all other documents and instruments executed as further evidence of, as additional security for or executed by Borrower in connection with the Loan (collectively, the "Loan Documents").

2. PERFORMANCE OF OTHER OBLIGATIONS. Borrower shall (i) perform, comply with and abide by each and every one of the terms, covenants, conditions and agreements contained and set forth in the Note, this Mortgage and the other Loan Documents; shall comply with all Laws (as hereinafter defined); (ii) perform all of its obligations under any term, covenant, condition, restriction or agreement of record

affecting the Property; (iv) ensure that at all times the Property constitutes one or more legal lots capable of being conveyed without violation of any subdivision or platting laws, codes, ordinances, statutes, rules, regulations, or other laws relating to the division, separation or subdivision of real property; and (v) perform and comply with all terms and conditions of the Easement Agreement and shall not amend, modify or allow the Easement Agreement to terminate at any time during the term of the Loan, without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

3. PRESERVATION AND MAINTENANCE OF PROPERTY; ACCESSIBILITY; HAZARDOUS SUBSTANCES.

(a) Borrower shall keep all Improvements now existing or hereafter erected on the Real Property in good order and repair, only to be used for the Existing Use, and shall not do or knowingly permit any direct intentional physical waste, impairment or deterioration thereof or thereon; shall not alter, remove or demolish any of the Improvements or any Fixtures and Personal Property attached or appertaining thereto, without the prior written consent of Lender; shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses which may be made of the Property or any part thereof; and shall not do or permit any other act whereby the Property shall become less valuable, be used for purposes contrary to applicable Law or be used in any manner which will increase the premium for or result in a termination or cancellation of the insurance policies hereinafter required to be kept and maintained on the Property. In furtherance of, and not by way of limitation upon, the foregoing covenant, Borrower shall effect such repairs as Lender may reasonably require, and from time to time make all needful and proper replacements so that the Improvements, Appurtenances, Fixtures and Personal Property will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed. In connection with the making of such repairs, Borrower shall use contractors who are properly licensed, who carry workers' compensation insurance and appropriate liability insurance, who generally have a good reputation for completing their work in a neat, prompt and workmanlike manner, and use only new or re-manufactured goods of a quality as good or better than that originally used on the Property. As provided herein, Borrower shall ensure that no liens are filed against the Property that relate in any way to the repair work provided for herein.

(b) Borrower at all times shall keep the Property and ground water of the Property free of Hazardous Substances (as hereinafter defined) and any liens arising in connection therewith. Borrower shall not and shall not knowingly permit its tenants or any third party requiring the consent of Borrower to enter the Property, to use, generate, manufacture, treat, store, release, threaten release, transport on or over, emit or dispose of Hazardous Substances in, on, over, under or about the Property, including the ground water of the Property, in violation of any federal, regional, state or local law, code, ordinance, statute, rule, regulation, decision or order currently in existence or hereafter enacted or rendered, including, but not limited to, those enumerated in the Indemnity Agreement of even date herewith executed by Borrower (the "Indemnity Agreement") (collectively, "Hazardous Substances Laws"). Borrower shall give Lender prompt Written Notice (as hereinafter defined) of any claim by any person, entity or governmental agency that a significant release or disposal of Hazardous Substances has occurred in, on, over, under or about the Property, including the ground water of the Property, in excess of those permitted by the Hazardous Substances Laws, whether caused by Borrower, any tenant or any third party. Borrower at its sole cost, shall promptly and thoroughly investigate any suspected release of Hazardous Substances in, on, over, under or about the Property, including the ground water of the Property. Borrower shall forthwith remove, repair, remediate, clean up and/or detoxify any Hazardous Substances found in, on, over, under or about the Property, or in the ground water of the Property, to the extent such actions are required by any applicable Hazardous

Substances Laws, and whether or not Borrower was responsible for the existence of the Hazardous Substances in, on, over, under or about the Property or the ground water of the Property. Hazardous Substances shall include, but not be limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" under any Hazardous Substances Laws. In addition, Borrower shall not incorporate any underground storage tanks into the Real Property without the prior written consent of Lender, and shall ensure that all tanks currently on the Real Property comply with current Hazardous Substances Laws and underground storage tank regulations and are properly registered. In the event that the Property is repaired, renovated or demolished in any manner that has the potential to result in the generation, disturbance or disposal of any Hazardous Substances, all such work shall be performed in compliance with Law by contractors adequately insured and properly licensed in the State. A final report demonstrating satisfactory completion of such work and the legal disposal of any Hazardous Substances shall be provided to Lender by the contractor.

(c) Borrower hereby agrees to indemnify and defend Lender and hold Lender harmless from and against any and all losses, liabilities, damages, injuries, actual out-of-pocket costs and expenses, fines, fees, suits, actions, debts, obligations, and claims of any and every kind whatsoever, including Reasonable Attorneys' Fees (collectively, "Losses") paid, incurred or suffered by, or asserted against, Lender for, with respect to, or as a direct or indirect result of the presence in, on, over, under or about, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Substances (including, without limitation, any losses, liabilities, damages, injuries, actual out-of-pocket costs and expenses or claims asserted or arising under any Hazardous Substances Laws), regardless of the source of origination and whether or not caused by, or within the control of, Borrower and including strict liability. Notwithstanding the above, Borrower shall owe no obligation to protect, defend, indemnify, release and hold harmless Lender as a result of Losses resulting from any act, omission or negligence of Lender or any of its affiliates, agents or contractors. Liability under this Section 3(c) and similar provisions in this Mortgage and the other Loan Documents concerning Hazardous Substances shall survive repayment of the Note and satisfaction of this Mortgage unless, at the time release from liability is requested, Borrower provides Lender with an updated environmental report prepared by the environmental engineer that issued the environmental report to Lender in connection herewith, or another environmental engineer reasonably acceptable to Lender demonstrating that the Property is free of Hazardous Substances and is not or is no longer in violation of any Hazardous Substances Laws. Borrower shall not be liable under this indemnity if the Property becomes contaminated by Hazardous Substances subsequent to a transfer of the Property by foreclosure or acceptance by Lender of a deed in lieu of foreclosure, or subsequent to any transfer of ownership of the Property that was approved or authorized by Lender in writing, or subsequent to the appointment of a receiver who takes possession of the Property. The burden of proof under this Section 3(c) with regard to establishing the date upon which Hazardous Substances were placed, appeared or released in, on, over, under or about the Property shall be upon Borrower.

Borrower at all times shall maintain the Property in full compliance with all federal, state, county, regional or local laws, codes, ordinances, rules, regulations, decisions and orders currently in existence or hereafter enacted or rendered, governing accessibility for the disabled, including, but not limited to: The Architectural Barriers Act of 1968, The Rehabilitation Act of 1973, The Fair Housing Act of 1988, The Americans with Disabilities Act, and any other applicable State statutes, laws or ordinances (collectively, the "Accessibility Laws").

Borrower hereby agrees to indemnify and defend Lender and hold Lender harmless from and against any and all Losses paid, incurred or suffered by, or asserted against Lender for, with respect to, or as a direct or indirect result of the non-compliance of the Property with the Accessibility Laws

(including, without limitation, any and all costs incurred in order to cause the Improvements to comply with Accessibility Laws), whether or not caused by, or within the control of, Borrower and including strict liability. Notwithstanding the foregoing, Borrower shall owe no obligation to protect, defend, indemnify, release and hold harmless Lender as a result of Losses resulting from any act, omission or negligence of Lender or any of its affiliates, agents or contractors. Liability under this Section 3 (c) and similar provisions in this Mortgage and the other Loan Documents concerning Accessibility Laws shall survive for twelve (12) months following repayment of the Note and satisfaction of this Mortgage. Borrower shall not be liable under this Section 3(c) for compliance with any Accessibility Laws that first become effective, or for any violations of any Accessibility Laws resulting from alterations or improvements to the Property that are performed (i) subsequent to a transfer of the Property by foreclosure or acceptance of a deed in lieu of foreclosure, or (ii) subsequent to any transfer that was approved or authorized by Lender in writing or (iii) by a receiver but only to the extent such receiver received Lender's prior written consent. The burden of proof under this Section 3(c) with regard to establishing the date upon which such non-compliance with any Accessibility Laws occurred at the Property shall be upon Borrower.

(d) Lender and/or its agents shall have the right and shall be permitted, but shall not be required, at all reasonable times, upon reasonable advance notice, to enter upon and inspect the Property to insure compliance with the foregoing covenants, and any and all other terms, covenants, conditions and agreements set forth in this Mortgage.

4. PAYMENT OF TAXES, ASSESSMENTS AND OTHER CHARGES. Borrower shall pay all taxes, assessments and other similar charges as already levied or assessed, or that may be hereafter levied or assessed, upon or against the Property, when the same shall become due and payable according to Law, before delinquency and before any interest or penalty shall attach thereto, and to deliver official receipts evidencing the payment of the same to Lender not later than thirty (30) days following the payment of the same. Borrower shall have the right to contest, in good faith and in accordance with applicable Laws and procedures, the proposed assessment of ad valorem taxes or special assessments by governmental authorities having jurisdiction over the Property; provided, however, Borrower shall give Written Notice of its intent to bring such an action to Lender. Any such contest, however, shall not relieve Borrower of its obligation to pay all taxes, assessments and similar charges in full as required by the first sentence of this Section 4, and Lender may, in its sole discretion, require Borrower to post a bond or other collateral satisfactory to Lender (and acceptable to the title company insuring this Mortgage to insure over said lien, charge or encumbrance) as a result of Borrower's act.

5. PAYMENT OF LIENS, CHARGES AND ENCUMBRANCES. Borrower shall promptly pay and discharge from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, realtors, brokers and others which if unpaid, might result in, or permit the creation of, a lien, charge or encumbrance upon the Property or any part thereof, or on the Rents, arising therefrom and, in general, to do or cause to be done everything necessary so that the lien of this Mortgage shall be fully preserved, at the sole cost of Borrower, without expense to Lender. Notwithstanding the foregoing, Borrower shall have the right to contest, in good faith and in accordance with applicable Laws and procedures, mechanics', materialmen's and other such liens filed against the Property; provided, however, that Borrower shall give Written Notice to Lender of its intent to bring such action and Lender may, in Lender's sole discretion, require Borrower to post a bond or other collateral satisfactory to Lender (and acceptable to the title company insuring this Mortgage) as a result of Borrower's act.

6. PAYMENT OF JUNIOR ENCUMBRANCES. Borrower shall permit no default or delinquency under any other lien, imposition, charge or encumbrance against the Property, even though junior

and inferior to the lien of this Mortgage; provided, however, the foregoing shall not be construed to permit any such additional lien or encumbrance against the Property, other than the Permitted Exceptions.

7. PAYMENT OF MORTGAGE TAXES. Borrower shall pay any and all taxes which may be levied or assessed directly or indirectly upon the Note and/or this Mortgage (except for income taxes payable by Lender) or the Loan, without regard to any Law which may be hereafter enacted imposing payment of the whole or any part thereof upon Lender, its successors or assigns. Upon violation of this covenant, or upon the rendering by any court of competent jurisdiction of a decision that such a covenant by Borrower is legally inoperative, or if any court of competent jurisdiction shall render a decision that the rate of said tax when added to the rate of interest provided for in the Note exceeds the then maximum rate of interest allowed by Law, then, and in any such event, the debt hereby secured shall, at the option of Lender, its successors or assigns, become immediately due and payable within one hundred twenty (120) days after Lender provides Written Notice to Borrower thereof, anything contained in this Mortgage or in the Note notwithstanding, without the imposition of a Prepayment Premium (as defined in the Note). The additional amounts which may become due and payable hereunder shall become a part of the Loan secured by this Mortgage.

8. HAZARD INSURANCE.

(a) Borrower shall continuously during the term of this Mortgage, keep the Improvements, Appurtenances, and Fixtures and Personal Property, now or hereafter existing, erected, installed and located in or upon the Real Property, insured with all risk property damage (extended coverage all risk) insurance against loss or damage resulting from fire, windstorm, flood, sinkhole, earthquake, mine subsidence, certified acts of terrorism (provided, however, Lender shall excuse Borrower from the obligation hereunder to maintain insurance against acts of terrorism if in the future Borrower provides to Lender, evidence reasonably satisfactory to Lender that terrorism insurance is (i) not available at commercially reasonable rates, and (ii) not required by other lenders holding mortgage loans on similar properties in the same geographic area as the Real Estate), without a co-insurance provision, including, without limitation, such other types and amounts of insurance with respect to the Property and the operation thereof which are commonly maintained in the case of other properties and buildings similar to the Property in nature, use, location, height and type of construction, on such forms and with such deductibles as may be required by Lender, from time to time, in order to protect its interests, all to the extent generally required and with deductibles as are generally required with respect to properties located in Cincinnati, Ohio similar to the Property, covering the Property in the amount of the full replacement cost thereof (without taking into account any depreciation), and covering all loss or abatement of rental or other income, without a provision for co-insurance, in an amount equal to the scheduled rental income (including base rent, expense reimbursements and other income) from the Property for at least twelve (12) months, or if applicable, business interruption insurance in an amount sufficient to pay debt service on the Note, operating expenses, taxes, insurance and other required escrows for the Property for a period of twelve (12) months, and covering loss by flood (if at any time during the term of the Loan the Improvements are shown to lie wholly or partially within a Special Flood Hazard Area as designated on the Department of Housing and Urban Development's Maps, or any other flood prone area) in an amount equal to the outstanding principal balance of the Loan or such other amount as approved by Lender, and earthquake insurance with a deductible amount of no more than ten percent (10%) of the policy amount, if the Property is located within one-half (1/2) mile of an Alquist-Priolo Special Earthquake Study Zone or if, in the reasonable judgment of Lender's inspecting architect, the Property lies in an area of anticipated significant seismic activity, and "Ordinance or Law Coverage" or "Enforcement" endorsements in amounts satisfactory to Lender if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses or the ability to rebuild the Improvements is restricted or prohibited,

and comprehensive boiler and machinery insurance (without exclusion for explosion), if applicable, in amounts as shall be reasonably required by Lender and covering all boilers or other pressure vessels, machinery and equipment located at or about the Property (including, without limitation, electrical equipment, sprinkler systems, heating and air conditioning equipment, refrigeration equipment and piping). All such insurance shall be underwritten with a company or companies licensed to do business in the State, which is acceptable to Lender, which company or companies shall have and maintain a rating equivalent to at least A-:VIII as shown in the most recent Best's Key Rating Guide. Borrower shall provide Lender evidence reasonably satisfactory to Lender in Lender's sole discretion of commercial property insurance indicating that Lender is the mortgagee and lender's loss payee under such policy in regard to the Property and showing the amount of coverage apportioned to the Property, which coverage shall be in an amount sufficient to satisfy the requirements hereof. Each such policy of insurance shall contain a noncontributing loss payable clause in favor of and in a form acceptable to Lender, and shall provide for not less than thirty (30) days prior Written Notice to Lender of any intent to modify, non-renew, cancel or terminate the policy or policies, or the expiration of such policies of insurance, or the exclusion of any individual risk such as acts of terrorism. If the insurance required under this Section 8 or any portion thereof is maintained pursuant to a blanket policy, any such blanket policy shall provide the same protection as would a separate policy insuring only the Property and shall be in compliance with this subsection 8(a), including compliance with the requirement that all carriers participating in such blanket policy shall have and maintain a rating of at least A-:VIII. Borrower shall furnish to Lender a copy of such endorsement and/or declaration page showing the Property properly endorsed thereunder (or such other evidence as may be agreed upon between Lender and Borrower under the terms of the Loan Documents). Not later than the expiration dates of each policy required of Borrower hereunder, Borrower will deliver to Lender evidence of renewal accompanied by other evidence of payment and renewal satisfactory to Lender. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the Loan, all right, title and interest of Borrower in and to any rights to unearned premiums, and in and to insurance proceeds then payable from any prior covered claims or events under any insurance policies in force on or prior to the date of transfer, shall pass to the purchaser or grantee.

(b) In the event of loss by reason of hazards, casualties, contingencies and perils for which insurance has been required by Lender hereunder, Borrower shall give immediate notice thereof to Lender. Lender is hereby irrevocably appointed attorney-in-fact coupled with an interest for Lender, at its option, to make proof of loss and/or to file a claim thereunder if Borrower shall fail or refuse to perform same within five (5) Business Days after Lender's written request therefor. Lender shall give prompt notice to Borrower of any exercise of such power of attorney as provided in this Section along with copies of all proofs of loss and/or to claims filed therewith. Each insurance company concerned is hereby notified, authorized and directed to make payment for any such loss that exceeds five percent (5%) of the original principal amount of the Note directly to Lender, instead of to Borrower and Lender jointly, and, in the event that Borrower fails to do so, Borrower hereby authorizes Lender to adjust and compromise any losses for which insurance proceeds are payable under any of the aforesaid insurance policies and, after deducting the costs of collection, to apply the proceeds of such insurance, at its option either: (i) to the restoration or repair of the insured Improvements, Appurtenances, and Fixtures and Personal Property, provided that, in the reasonable opinion of Lender, such restoration or repair is reasonably practical and, provided further, that, in the reasonable opinion of Lender, either: (1) the insurance proceeds so collected are sufficient to cover the cost of such restoration or repair of the damage or destruction with respect to which such proceeds were paid, or (2) the insurance proceeds so collected are not sufficient alone to cover the cost of such restoration or repair but are sufficient therefor when taken together with funds provided and made available by Borrower from other sources, in which event Lender shall make such insurance proceeds available

to Borrower for the purpose of effecting such restoration or repair, but Lender shall not be obligated to see to the proper application of such insurance proceeds nor shall the amount of funds so released or used be deemed to be payment of or on account of the Loan; or (ii) to the reduction of the Loan, notwithstanding the fact that the amount owing thereon may not then be due and payable or that said Loan is otherwise adequately secured, in which event such proceeds shall be applied at par, without any Prepayment Premium, against the Loan and the monthly payments due on account of such Loan shall be reduced accordingly as calculated by Lender in good faith. None of such actions taken by Lender shall be deemed to be or result in a waiver or impairment of any equity, lien or right of Lender under and by virtue of this Mortgage, nor will the application of such insurance proceeds to the reduction of the Loan serve to cure any default in the payment thereof. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the Loan, all right, title and interest of Borrower in and to any rights to unearned premiums and in and to insurance proceeds then payable from any prior covered claims or events under any insurance policies in force on or prior to the date of transfer, shall pass to the purchaser or grantee.

(c) In case of Borrower's failure to keep the Property properly insured as required herein, Lender, its successors or assigns, may, at its option (but shall not be required to), acquire such insurance as required herein at Borrower's sole expense.

(d) Notwithstanding any of the foregoing provisions of this Section 8 to the contrary (but subject to the last paragraph of this Section 8), in the event of loss or damage to the Property by fire or other casualty covered by insurance maintained by Borrower, including without limitation, insurance that has been required by Lender and provided by Borrower, and the amount of such loss or damage does not exceed forty percent (40%) of the original principal amount of the Note, Lender hereby agrees to allow the proceeds of insurance to be used for the restoration of the Property and to release such insurance proceeds to Borrower as such restoration progresses, subject to the following conditions:

(i) No Event of Default has occurred and is continuing under any of the terms of this Mortgage, the Note, the other Loan Documents;

(ii) Making reasonable assumptions as re-leasing any vacant space, the Improvements are expected to be at least eighty percent (80%) leased after restoration of the Property;

(iii) The plans and specifications for the restoration of the Property shall have been approved in writing by Lender in advance, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, that Lender may waive this requirement if no material changes are made from the original plans and specifications for the Improvements;

(iv) At all times during such restoration, Borrower has deposited with Lender funds which, when added to the insurance proceeds received by Lender, are sufficient to complete the restoration of the Property in accordance with the approved plans and specifications, and all applicable building codes, zoning ordinances, regulations and Accessibility Laws after accounting for any permissible non-conforming uses, and the funds on deposit with Lender are sufficient to complete the restoration of the Property as certified to Lender by Lender's inspecting architect/engineer;

(v) Borrower provides suitable builders' all risk insurance in such amounts, with such deductibles and upon such other terms and conditions as are reasonably acceptable to

Lender, together with all necessary licenses and permits for such restoration in form and amount reasonably acceptable to Lender;

(vi) The property insurer under such policies of fire or other casualty insurance does not assert any valid defenses to, withholds or restricts payment under Borrower's property insurance;

(vii) Lender shall, upon the completion of such restoration of the Property, deliver any surplus insurance proceeds remaining after the completion of such restoration to Borrower;

(viii) The insurance proceeds and any other funds held by Lender shall be disbursed by Lender no more often than once per month and in not more than seven (7) increments of not less than \$50,000 each, except the final disbursement which may be in an amount less than \$50,000;

(ix) Lender's obligation to make any such disbursement shall be conditioned upon Lender's receipt of written certification from Lender's inspecting architect/engineer (whose fees shall be reimbursed to Lender by Borrower) that all construction and work for which such disbursement is requested has been completed in accordance with the approved plans and specifications and in accordance with all applicable building codes, zoning ordinances and all other Laws (after accounting for any permissible non-conforming uses) and, further, that Borrower has deposited with Lender sufficient funds to complete such restoration in accordance with Section (8)(d)(iv); and

(x) Lender shall be entitled to require and to impose such other reasonable conditions to the release of such funds as would be customarily required and imposed by institutional mortgage lenders or that are otherwise commercially reasonable construction-type loan disbursement requirements.

Notwithstanding the foregoing, in the event of loss or damage to the Property by fire or other casualty for which insurance has been required by Lender and provided by Borrower, and the amount of such loss or damage does not exceed five percent (5%) of the original principal amount of the Note, then Lender shall allow such insurance proceeds to be released to Borrower to be used for the restoration of the Property, with any excess of such proceeds to be released to Borrower upon completion of such restoration.

9. LIABILITY INSURANCE. Borrower shall carry and maintain such commercial general liability insurance in an adequate amount as may from time to time be required by Lender in order to protect its interest, all to the extent generally required, and with deductibles as are generally required with respect to properties similar to the Property which are located in Cincinnati, Ohio, taking into consideration the type of property being insured and the corresponding liability exposure, on forms, with deductibles, in amounts and with such company or companies licensed to do business in the State and as may be acceptable to Lender. All such commercial general liability insurance shall be underwritten with a company or companies which have and maintain a rating equivalent to at least A-:VIII as shown in the most recent Best's Key Rating Guide. The original policy or policies and all renewals thereof are hereby assigned to Lender as additional security for the Loan. Borrower shall provide Lender evidence of liability insurance and an additional insured endorsement for general liability insurance. Such policy or policies of insurance shall name Lender as an additional insured and shall provide for not less than thirty (30) days prior Written Notice to Lender of any intent to modify, cancel, non-renew or terminate the policy or policies or the expiration of such policy or policies of insurance, or the exclusion of any individual risk such as acts of terrorism. Not later than the expiration dates of each policy or policies required of Borrower hereunder, Borrower will deliver to Lender

evidence of renewal accompanied by other evidence of payment and renewal satisfactory to Lender. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the Loan, all right, title and interest of Borrower in and to any rights to unearned premiums, and in and to insurance proceeds then payable from any prior covered claims or events under any insurance policies in force on or prior to the date of transfer, shall pass to the purchaser or grantee. In case of Borrower's failure to keep the Property properly insured as required herein, Lender, its successors or assigns, may, at its option (but shall not be required to), acquire such insurance as required herein at Borrower's sole expense.

10. COMPLIANCE WITH LAWS.

(a) Borrower shall observe, abide by and comply in all material respects with all federal, regional, state and local laws, codes, ordinances, statutes, rules, regulations, decisions, orders, requirements or decrees relating to the Property enacted, promulgated or issued by any federal, state, county or local governmental or quasi-governmental authority or any agency or subdivision thereof having jurisdiction over Borrower or the Property, which now or hereafter affect Borrower or the Property, including Hazardous Substances Laws and Accessibility Laws (collectively, the "Laws"), and to observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning, variances, special exceptions and nonconforming uses), privileges, franchises and concessions which are applicable to the Property, or which have been granted to or contracted for by Borrower in connection with any existing, presently contemplated or future uses of the Property.

(b) Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, this Mortgage and the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Borrower shall deliver to Lender such certifications or other evidence from time to time throughout the term of this Mortgage, as requested by Lender in its sole discretion, that (i) Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) one or more of the following circumstances is true:

(1) Equity interests in Borrower are publicly offered securities within the meaning of 29 C.F.R. § 2510.3-101(b)(2);

(2) Less than twenty-five percent (25%) of each outstanding class of equity interests in Borrower are held by "benefit plan investors" within the meaning of 29 C.F.R. § 2510.3-101(f)(2); or

(3) Borrower qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. § 2510.3-101(c) or (e) or an investment company registered under The Investment Company Act of 1940.

11. MAINTENANCE OF PERMITS. Borrower shall obtain, keep and constantly maintain in full force and effect during the entire term of this Mortgage, all certificates, licenses and permits necessary to keep the Property operating for the Existing Use and, except as specifically provided for in this Mortgage, shall not assign, transfer or in any manner change such certificates, licenses or permits without first receiving the written consent of Lender.

12. OBLIGATIONS OF BORROWER AS LESSOR.

(a) Borrower shall use commercially reasonable efforts to timely fulfill and perform every obligation, condition and covenant of Borrower (as the landlord) contained in any and every lease, license or other occupancy agreement of or affecting the Property or any part thereof (the "Occupancy Leases") and shall use commercially reasonable efforts to timely enforce every obligation, condition and covenant of each tenant in any and every Occupancy Lease, and shall not amend, modify, alter, waive, cancel, surrender or terminate any such Occupancy Leases or any part thereof or rights thereunder, without the prior written consent of Lender which consent shall not be unreasonably withheld, conditioned or delayed (but such consent shall not be required for such action as to any Occupancy Lease that is not with a Major Tenant (as hereafter defined)) provided such action is in the ordinary course of business of owning and operating the Property in a prudent and business-like manner and at market rents and on market terms for similar property the ("Prudent Market Standard") or is expressly permitted under the terms of any Occupancy Lease, nor collect for more than thirty (30) days in advance of the date due any Rents that may be collectible under any such Occupancy Leases and, except as provided for in this Mortgage, shall not assign any such Occupancy Lease(s) or any such Rents relating thereto, to any party other than Lender, without the prior written consent of Lender. Borrower will notify Lender in writing of any default notice provided by Borrower under any Occupancy Lease with a Major Tenant. In the event of default (beyond any applicable notice and cure periods) under any such Occupancy Lease by reason of failure of Borrower to keep or perform one or more of the covenants, agreements or conditions thereof, Lender is hereby authorized and empowered, and may, at its sole option, remedy, remove or cure any such default, and further, Lender may, at its sole option and in its sole discretion but without obligation to do so, pay any sum of money deemed necessary by Lender for the performance of said covenants, agreements and conditions, or for the curing or removal of any such default, and incur all expenses and obligations which Lender may consider necessary or reasonable in connection therewith, and Borrower shall repay within ten (10) business days following demand all such sums so paid or advanced by Lender together with interest thereon from the due date until paid at the lesser of either: (i) the highest rate of interest then allowed by the Laws of the State, or, if controlling, the Laws of the United States, or (ii) the then applicable interest rate of the Note plus five hundred (500) basis points per annum; all of such sums, if unpaid, shall be added to and become part of the Loan.

(b) All such Occupancy Leases hereafter made shall be subject to the review, comment and approval of Lender and, unless otherwise approved by Lender, which approval shall not be unreasonably withheld, conditioned or delayed: (i) shall be at competitive market rental rates then prevailing in the geographic area for projects used for the Existing Use comparable to the Property; (ii) shall have lease terms of not less than three (3) years; and (iii) at Lender's option, shall be superior or subordinate in all respects to the lien of this Mortgage. Notwithstanding the foregoing, Lender shall not require approval in advance of any Occupancy Leases not with a Major Tenant which either substantially conforms to Borrower's Form Lease (as hereinafter defined) as approved by Lender and in accordance with the Prudent Market Standard, subject to commercially reasonable changes made during the course of negotiation of such Occupancy Lease, or is with a national tenant and is on the lease form of such national tenant. Provided that no Event of Default is continuing, if (i) Borrower provides Lender with a written request for approval of a proposed Occupancy Lease or a proposed renewal, extension or modification of an existing Occupancy Lease, and (ii) Lender fails to approve or disapprove the request in writing delivered to Borrower within ten (10) business days after receipt by Lender, provided that such request is sent certified mail or other overnight carrier labeled with the following statement: "TIME SENSITIVE RESPONSE REQUIRED WITHIN TEN (10) BUSINESS DAYS OF ACTUAL RECEIPT", then the proposed Occupancy Lease or proposed renewal, extension

or modification of an existing Occupancy Lease shall be deemed approved by Lender, and Borrower shall be entitled to enter into such proposed Occupancy Lease or proposed renewal, extension or modification of an existing Occupancy Lease. If requested by Borrower, Lender will grant conditional approvals of proposed Occupancy Leases or proposed renewals, extensions or modifications of existing Occupancy Leases, at any stage of the leasing process, from initial "term sheet" through negotiated lease drafts, provided that Lender shall retain the right to disapprove any modifications or changes to any proposed Occupancy Lease or proposed renewals, extensions or modifications of existing Occupancy Leases made subsequent to Lender's approval.

(c) Lender has approved a form of Occupancy Lease to be used by Borrower in connection with the Property (the "Form Lease"). Borrower shall not, without the prior written consent of Lender, which approval shall not be unreasonably withheld, conditioned or delayed, amend, modify or alter the Form Lease and Borrower shall reimburse Lender any of its actual and reasonable out-of-pocket costs and expenses, including Reasonable Attorneys' Fees, for the review of any proposed revisions to the Form Lease, or for the review of proposed Occupancy Leases, any extensions, modifications and amendments to Occupancy Leases and any subordination, non-disturbance and attornment agreements, and estoppels not on Lender's form. To the extent Borrower's approval is required under any Occupancy Lease with a Major Tenant, Borrower shall not, without the prior written consent of Lender, permit an assignment or sublease of any such Occupancy Lease. Borrower shall not, without the prior written consent of Lender, request or consent to the subordination of any Occupancy Lease to any lien subordinate to this Mortgage. Borrower shall furnish Lender with copies of all executed Occupancy Leases of all or any part of the Property now existing or hereafter made, and Borrower shall assign to Lender (which assignment shall be in form and content acceptable to Lender), as additional security for the Note and the Loan, all Occupancy Leases now existing or hereafter made for all or any part of the Property. Additionally, if any Occupancy Lease contains a provision allowing the tenant to terminate its lease upon payment of a lease termination fee, Borrower agrees that all such sums shall constitute Rent, and shall be paid to Lender in accordance with the terms of the Assignment.

(d) Notwithstanding the foregoing approval by Lender of Borrower's Form Lease, Lender hereby specifically reserves the right to approve, which approval shall not be unreasonably withheld, conditioned or delayed, all prospective tenants under all Occupancy Leases hereafter proposed to be made if: (i) the net rentable area to be occupied thereunder, including expansion options which have been exercised, exceeds 20,000 square feet of the net leasable area of each of the buildings comprising the Improvements; (ii) the primary lease term, excluding renewal options, exceeds ten (10) years; (iii) the tenant is a related entity or affiliate of Borrower; or (iv) it is an Occupancy Lease that is to be used to satisfy the release of escrow funds or for other rental achievement purposes (the tenants under such leases being herein referred to as "Major Tenants"). As of the date hereof, the following entities are deemed to be Major Tenants: Stein Mart, Inc., a Florida corporation, Nordstrom, Inc., a Washington corporation, HomeGoods, Inc., a Delaware corporation, The TJX Companies, Inc., a Delaware corporation, and Booksellers Enterprises, LLC, a Kentucky limited liability company. Borrower shall notify Lender in writing of all prospective Major Tenants, and, to the extent in Borrower's possession, shall deliver to Lender a copy of any prospective Major Tenant's current financial statement. The financial statement delivered to Lender hereunder shall be certified by Borrower as a true and correct copy of the financial statement received by Borrower from such tenant.

(e) In no event shall Borrower exercise any right to relocate any lessee outside the Property pursuant to any right set forth in an Occupancy Lease without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed.

13. MAINTENANCE OF PARKING & ACCESS PROHIBITION AGAINST ALTERATION; SEPARATE TAX LOT.

(a) Borrower shall construct, keep and constantly maintain, as the case may be, all curbs, drives, parking areas and the number of parking spaces heretofore approved by Lender, or heretofore or hereafter required by any Laws or any governmental body, agency or authority having jurisdiction over Borrower or the Property, and as required by the terms of the Occupancy Leases, and subject to the provisions of Section 38 hereof, shall not alter, erect, build or construct upon any portion of the Property, any building, structure or improvement of any kind whatsoever, the erection, building or construction of which has not been previously approved by Lender in writing, which approval shall not be unreasonably withheld, conditioned or delayed; provided however, that Borrower shall be permitted to make non-structural alterations and tenant improvements to the extent required by the terms of Occupancy Leases.

(b) Borrower shall cause the Property to remain separately assessed for real estate tax purposes as a separate tax lot or lots.

14. EXECUTION OF ADDITIONAL DOCUMENTS. Borrower shall do, make, execute, acknowledge, witness and deliver all deeds, conveyances, mortgages, deeds of trust, assignments, estoppel certificates, subordination non-disturbance and attornments, notices of assignments, transfers, assurances, security agreements, financing statements and renewals thereof, and all other instruments or other acts necessary, as Lender shall from time to time reasonably require for the purpose of better assuring, conveying, assigning, transferring, securing and confirming unto Lender the Property and rights hereby encumbered, created, conveyed, assigned or intended now or hereafter so to be encumbered, created, conveyed or assigned, or which Borrower may now be or may hereafter become bound to encumber, create, convey or assign to Lender, or for the purpose of carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage, and to pay all filing, registration or recording fees and all taxes, costs and other expenses, including Reasonable Attorneys' Fees, incident to the preparation, execution, acknowledgment, delivery and recordation of any of the same; provided, however, that no such further assurance increases Borrower's obligations or liabilities under the Loan Documents or decreases Borrower's rights under the Loan Documents. By signing this Mortgage, Borrower authorizes Lender to file such financing statements, with or without the signature of Borrower, as Lender may elect, as may be necessary or desirable to perfect the lien of Lender's security interest in the Fixtures and Personal Property. Without limiting any other provision herein, Borrower hereby authorizes Lender to file one or more financing statements and any renewal or continuation statements thereof, describing the Property and the proceeds of the Property, including, without limitation, a financing statement covering "all assets of Borrower all proceeds therefrom, and all rights and privileges with respect thereto." Borrower further authorizes Lender to file, with or without any additional signature from Borrower, as Lender may elect, such amendments and continuation statements as Lender may deem necessary or desirable from time to time to perfect or continue the lien of Lender's security interest in the Fixtures and Personal Property. Borrower hereby ratifies any financing statements that may have been filed by Lender in advance of the date hereof to perfect Lender's security interest in the Fixtures and Personal Property.

15. AFTER-ACQUIRED PROPERTY SECURED. Borrower shall subject to the lien of this Mortgage all right, title and interest of Borrower in and to all extensions, improvements, betterments, renewals, substitutions and replacements of, and all additions and appurtenances to, the Property hereinabove described, hereafter acquired by or released to Borrower, or constructed, assembled or placed by Borrower on the Real Property, and all conversions of the security constituted thereby, immediately upon such acquisition, release,

construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, deed of trust, encumbrance, conveyance, assignment or other act by Borrower, as fully, completely and with the same effect as though now owned by Borrower and specifically described herein, but at any and all times, Borrower will execute and deliver to Lender any and all such further assurances, mortgages, deeds of trust, conveyances, security agreements, financing statements or assignments thereof or security interests therein as Lender may reasonably require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage; provided, however, that no such further assurance increases Borrower's obligations or liabilities under the Loan Documents or decreases Borrower's rights under the Loan Documents.

16. PAYMENTS BY LENDER ON BEHALF OF BORROWER. Unless being contested by Borrower in good faith, in accordance with applicable Laws after prior Written Notice to Lender, Borrower shall make payment of any taxes, assessments or public charges on or with respect to the Property before the same shall become delinquent and shall make payment of any insurance premiums or other charges, impositions, or liens herein or elsewhere required to be paid by Borrower as they become due and, if Borrower shall fail so to do, then Lender, at its sole option, but without obligation to do so, may make payment or payments of the same and also may redeem the Property from tax sale without any obligation to inquire into the validity of such taxes, assessments, tax sales, charges, impositions or liens. In the case of any such payment by Lender, Borrower agrees to reimburse Lender, within ten (10) business days following demand therefor, the amount of such payment and of any fees and expenses attendant in making the same, together with interest thereon from the due date until paid at the lesser of either: (a) the highest rate of interest then allowed by the Laws of the State or, if controlling and not in violation of the Laws of the State, the Laws of the United States, or (b) the then applicable interest rate of the Note plus five hundred (500) basis points per annum; and until paid such amounts and interest shall be added to and become part of the Loan to the same extent that this Mortgage secures the repayment of the Loan. Borrower's failure to reimburse Lender within fifteen (15) days of receiving Lender's demand shall be a Monetary Default (as hereinafter defined) and subject to the terms of Section 23 hereof. In making payments authorized by the provisions of this Section 16, Lender may do so whenever, in Lender's sole judgment and discretion, such advance or advances are necessary or desirable to protect the full security intended to be afforded by this Mortgage. Neither the right nor the exercise of the rights herein granted to Lender to make any such payments as aforesaid shall preclude Lender from exercising its option to cause the Loan to become immediately due and payable by reason of an Event of Default arising out of Borrower's failure to make such payments as hereinabove required.

17. FUNDS HELD BY LENDER FOR TAXES, ASSESSMENTS, INSURANCE PREMIUMS, AND OTHER CHARGES. In order to more fully protect the security of this Mortgage, Borrower shall deposit with Lender, together with and in addition to each monthly payment due on account of the Loan, an amount equal to one-twelfth (1/12) of the annual total of such taxes, assessments, insurance premiums and other charges (all as estimated by Lender in its sole discretion) so that, at least thirty (30) days prior to the due date thereof, Lender shall be able to pay the next installment of taxes and assessments due and one (1) full years worth of insurance premiums and other charges as the same shall become due. Lender may hold the sums so deposited without paying interest, commingle same with its general funds and/or apply the same to the payment of said taxes, assessments, insurance premiums or other charges as they become due and payable. If at any time the funds so held by Lender are insufficient to pay such taxes, assessments, insurance premiums or other charges as they become due and payable, Borrower shall immediately, upon Written Notice and demand by Lender, deposit with Lender the amount of such deficiency. The failure on the part of Borrower to do so shall entitle Lender, at Lender's sole option, to make such payments in accordance with the rights and pursuant to the conditions elsewhere provided in this Mortgage. Whenever any Event of Default exists under this Mortgage, Lender may, at Lender's sole option but without an obligation so to do, apply any funds so held by Lender pursuant to this Section 17 toward the payment of the Loan, notwithstanding the fact that

the amount owing thereon may not then be due and payable or that the Loan may otherwise be adequately secured, in such order and manner of application as Lender may elect.

18. CONDEMNATION; EMINENT DOMAIN. All claims and rights of action for, and all awards and other compensation heretofore or hereafter made to Borrower and all subsequent owners of the Property in any taking by eminent domain, recovery for inverse condemnation or by deed in lieu thereof, whether permanent or temporary, of all or any part of the Property or any easement or any appurtenance thereto, including severance and consequential damages and change in grade of any way, street, avenue, road, alley, passage or public place, are hereby assigned to Lender. Borrower hereby irrevocably appoints Lender as its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers Lender, at the option of Lender as said attorney-in-fact, on behalf of Borrower, its successors and assigns, to adjust or compromise the claim for any such award, and alone to collect and receive the proceeds thereof, to give proper receipts and acquittances therefor if Borrower shall fail or refuse to perform same within five (5) Business Days after Lender's written request therefor. Lender shall give prompt notice to Borrower of any exercise of such power of attorney as provided in this Section along with copies of all claims filed or receipts or acquittances provided therewith. After deducting any expenses of collection, at Lender's sole discretion and option either:

(a) hold said proceeds without any allowance of interest, and make the same available for restoration or rebuilding of the Improvements. In the event that Lender elects to make said proceeds available to reimburse Borrower for the cost of the restoration or rebuilding of the Improvements on the Real Property, such proceeds shall be made available in the manner and under the same conditions as required under Section 8 hereof with respect to a casualty restoration. If the proceeds are made available by Lender to reimburse Borrower for the cost of said restoration or rebuilding, any surplus which may remain out of said award after payment of such cost of restoration or rebuilding shall be applied on account of the Loan at par, without any Prepayment Premium, notwithstanding the fact that the amount owing thereon may not then be due and payable or that the Loan may otherwise be adequately secured; or

(b) in the event there would be no material adverse change in the value of the Property, once restored, as a result of such condemnation or taking by eminent domain, as reasonably determined by Lender, release such proceeds to Borrower for restoration of the Property subject to the same conditions as required under Section 8 hereof.

Borrower further covenants and agrees to give Lender immediate notice of the actual or threatened commencement of any proceedings under eminent domain after Borrower obtains knowledge thereof and to deliver to Lender copies of any and all papers served in connection with any such proceedings. Borrower further covenants and agrees to make, execute and deliver to Lender, at any time or times, upon request, free, clear and discharged of any encumbrance of any kind whatsoever, any and all further assignments and/or other instruments reasonably deemed necessary by Lender for the purpose of validly and sufficiently assigning all such awards and other compensation heretofore or hereafter made to Lender (including the assignment of any award from the United States government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof).

It shall be an Event of Default hereunder if either: (i) any part of any of the Improvements situated on the Real Property shall be condemned by any governmental authority having jurisdiction; (ii) a portion of the Real Property shall be condemned such that the remaining Property is in violation of applicable parking, zoning, platting, or other Laws (unless legal nonconforming); or (iii) any condemnation results in a loss greater than forty percent (40%) of the original principal amount of

the Loan, then in each case, Lender shall be entitled to exercise any or all remedies provided or referenced in this Mortgage or the other Loan Documents, including the right to apply the condemnation proceeds to the full principal balance of the Note at par, without any Prepayment Premium, and the right to accelerate the maturity date of the Note and require payment in full without the imposition of a Prepayment Premium within one hundred twenty (120) days of Lender's Written Notice to Borrower. Notwithstanding the foregoing, provided that no other Event of Default is then continuing under the Loan Documents, the then outstanding principal balance due under the Note shall not bear interest at the Default Rate (as defined in the Note) during such one hundred twenty (120) day period.

Notwithstanding the foregoing, in the event of loss to the Property as a result of condemnation and the amount of such loss does not exceed five percent (5%) of the original principal amount of the Note, then Lender shall allow the condemnation award applicable to such loss to be released to Borrower to be used for the restoration of the Property, with any excess of such award to be retained by Borrower upon completion of such restoration.

19. COSTS OF COLLECTION. In the event that the Note is placed in the hands of an attorney for collection, or in the event that Lender shall become a party either as plaintiff or as defendant in any action, suit, appeal or legal proceeding (including, without limitation, foreclosure, condemnation, bankruptcy, administrative proceedings or any proceeding wherein proof of claim is by law required to be filed), hearing, motion or application before any court or administrative body in relation to the Property or the lien and security interest granted or created hereby or herein, or for the recovery or protection of the Loan or the Property, or for the foreclosure of this Mortgage, or for the enforcement of the terms and conditions of the Loan Documents, Borrower shall indemnify, save, defend and hold Lender harmless from and against any and all Losses incurred by Lender on account thereof and Borrower shall repay within ten (10) business days following demand, all such Losses, together with interest thereon from the due date until paid at the lesser of either (a) the highest rate of interest then allowed by the Laws of the State or, if controlling and not in violation of the Laws of the State, the Laws of the United States, or (b) the then applicable rate of interest of the Note plus five hundred (500) basis points per annum; all of which sums, if unpaid, shall be added to and become a part of the Loan.

20. DEFAULT RATE. Any sums not paid when due, whether maturing by lapse of time or by reason of acceleration under the provisions of the Note, this Mortgage or any of the other Loan Documents, and whether principal, interest or money owing for advancements pursuant to the terms of this Mortgage or any other Loan Document, shall bear interest following the expiration of any cure period until paid at the lesser of either (a) the highest rate of interest then allowed by the Laws of the State or, if controlling and not in violation of the Laws of the State, the Laws of the United States, or (b) the then applicable rate of interest of the Note plus five hundred (500) basis points per annum; all of which sums shall be added to and become a part of the Loan.

21. SAVINGS CLAUSE. Notwithstanding any provisions in the Note or in this Mortgage to the contrary, the total liability for payments in the nature of interest, including, but not limited to, Prepayment Premiums, default interest and late payment charges, shall not exceed the limits imposed by the Laws of the State or, if controlling and not in violation of the Laws of the State, the Laws of the United States, relating to maximum allowable charges of interest. Lender shall not be entitled to receive, collect or apply, as interest on the Loan, any amount in excess of the maximum lawful rate of interest permitted to be charged by any Laws. In the event Lender ever receives, collects or applies as interest any such excess, such amount which would be excessive interest shall be applied to reduce the unpaid principal balance of the Loan evidenced

by the Note. If the unpaid principal balance of such Loan has been paid in full, any remaining excess shall be forthwith returned to Borrower.

22. BANKRUPTCY, REORGANIZATION OR ASSIGNMENT. It shall be an Event of Default hereunder if Borrower or any of its respective general partners or managing members shall: (a) elect to dissolve or liquidate its business organization or wind up its business affairs without receiving the prior written approval of Lender; (b) consent to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets; (c) be adjudicated as bankrupt or insolvent, or file a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they become due; (d) make a general assignment for the benefit of creditors; (e) file a petition under or take advantage of any insolvency law; (f) file an answer admitting the material allegations of a petition filed against Borrower in any bankruptcy, reorganization or insolvency proceeding or petition or request for the appointment of a receiver, or fail to cause the dismissal of such petition within ninety (90) days after the filing of said petition; (g) take action for the purpose of effecting any of the foregoing; or (h) if any order, judgment or decree shall be entered upon an application of a creditor of Borrower by a court of competent jurisdiction approving a petition seeking appointment of a receiver or trustee of all or a substantial part of such party's assets and such order, judgment or decree shall continue unstayed and in effect for a period of ninety (90) days.

23. TIME IS OF THE ESSENCE; MONETARY AND NON-MONETARY DEFAULTS. It is understood by Borrower that time is of the essence hereof in connection with all obligations of Borrower herein and any of the other Loan Documents.

During the continuance of an Event of Default, Lender, at its sole option, may declare the Loan, as well as all other monies secured or evidenced hereby or by any of the other Loan Documents, including, without limitation, all Prepayment Premiums (to the extent permitted by the Laws of the State) and late payment charges, to be in default and forthwith due and payable. As used herein, the term "Event of Default" shall mean:

(a) Borrower's failure to pay any monthly installment of the Note, whether of principal or interest, or both, or in the payment of any other sums of money referred to herein or in the Note or in any of the other Loan Documents, promptly and fully when the same shall be due, without notice or demand from Lender to Borrower in regard to such Monetary Default, Lender having given Borrower Written Notice of such Monetary Default and (i) a five (5) day period after the date of such Written Notice within which to cure a Monetary Default related to any monthly payment of debt service and (ii) a ten (10) day period after the date of such Written Notice within which to cure any other Monetary Default; provided, however, that Borrower shall not be entitled to any Written Notice or any cure period more than one (1) time per Loan Year (as defined in the Note), the second such Monetary Default in such Loan Year constituting an Event of Default without any grace period, and provided further that, in connection with each Monetary Default, Lender may collect a late payment charge as set forth in Section 4 of the Note.

(b) Borrower's breach of or default under any of the terms, covenants, conditions and agreements of the Note, this Mortgage or any other Loan Documents; or in the event that each and every one of said terms, covenants, conditions and agreements is not otherwise either duly, promptly and fully discharged or performed, and any such Non-Monetary Default (as hereinafter defined) remains uncured for a period of thirty (30) days after Written Notice thereof has been delivered from Lender to Borrower; unless such Non-Monetary Default cannot be cured within said thirty (30)-day period, in which event Borrower shall have a reasonable period of time to complete cure, provided that action to cure such Non-Monetary Default is promptly commenced within said thirty (30)-day

period, and Borrower is, in Lender's commercially reasonable judgment, not diminishing or impairing the value of the Property and is diligently pursuing a cure to completion, but in no event longer than one hundred twenty (120) days.

(c) Any representation or warranty of Borrower or of its members, general partners, principals, affiliates, agents or employees made herein or in any other Loan Document, in any guaranty, or in any certificate, report, financial statement or other instrument or document furnished to Lender shall have been intentionally false or misleading in any material respect when made. Lender shall provide Written Notice to Borrower (but no cure period) with respect to the forgoing.

(d) Any seizure or forfeiture of the Property, or any portion thereof, or Borrower's interest therein, resulting from criminal wrongdoing or other unlawful action of Borrower or its affiliates under any federal, state or local law. Lender shall provide Written Notice to Borrower (but no cure period) with respect to the forgoing.

(e) If Borrower consummates a transaction which would cause this Mortgage or Lender's exercise of its rights under this Mortgage, the Note or the other Loan Documents to constitute a nonexempt prohibited transaction under ERISA or result in a violation of a state statute regulating governmental plans, subjecting Lender to liability for a violation of ERISA or a state statute. Lender shall provide Written Notice to Borrower (but no cure period) with respect to the forgoing.

(f) Any default occurs in the performance of any covenant or obligation of Borrower under any indemnity or guaranty delivered to Lender in connection with the Loan and such default continues beyond the expiration of applicable notice and cure periods. Lender shall provide Written Notice to Borrower (but no cure period) with respect to the forgoing.

Upon the occurrence of any one of the above events, and at the option of Lender, the principal of and the interest accrued on the Loan and all other sums secured by this Mortgage and the other Loan Documents shall immediately become due and payable as if all of said sums of money were originally stipulated to be paid on such day. In addition, Lender may avail itself of all rights and remedies provided by law or equity, and may foreclose or prosecute a suit at law or in equity as if all monies secured hereby had matured prior to its institution, anything in this Mortgage or any of the other Loan Documents to the contrary notwithstanding. Except as expressly provided herein, Lender shall have no obligation to give Borrower notice of, or any period to cure, any Monetary Default or any Incurable Default (as hereinafter defined) prior to exercising its rights, powers, privileges and remedies.

As used herein, the term "Monetary Default" shall mean any default which can be cured by the payment of money such as, but not limited to, the payment of principal and interest due under the Note, or the payment of taxes, assessments and insurance premiums when due as provided in this Mortgage. As used herein, the term "Non-Monetary Default" shall mean any default that is not a Monetary Default or an Incurable Default. As used herein, the term "Incurable Default" shall mean either: (i) any voluntary or involuntary sale, assignment, mortgaging, encumbering or transfer of the Property or ownership interests in Borrower in violation of the covenants contained herein or any of the other Loan Documents; or (ii) if Borrower should breach any of the provisions of Section 22 of this Mortgage.

The failure or omission on the part of Lender to exercise the option for acceleration of maturity of the Note and foreclosure of this Mortgage during the continuance of any Event of Default as aforesaid or to exercise any other option or remedy granted hereunder to Lender when entitled to do so in any one or more instances, or the acceptance by Lender of partial payment of the Loan, whether before or subsequent to an Event of Default hereunder, shall not constitute a waiver of any such Event of Default or the right to exercise

any such option or remedy, but such option or remedy shall remain continuously in force. Acceleration of the maturity of the Note, once claimed hereunder by Lender, at the option of Lender, may be rescinded by written acknowledgment to that effect by Lender, but the tender and acceptance of partial payments alone shall not in any way either affect or rescind such acceleration of maturity, nor act as a waiver, accord and satisfaction, modification, novation or similar defense.

24. FORECLOSURE. During the continuance of an Event of Default hereunder, Lender may institute an action to foreclose this Mortgage as to the amount so declared due and payable, and thereupon the Property (or any portion thereof) shall be sold according to law to satisfy and pay the same, together with all costs, expenses and allowances thereof, including, without limitation, Reasonable Attorneys' Fees. The Property may be sold in one parcel, several parcels or groups of parcels, and Lender shall be entitled to bid at the sale and, if Lender is the highest bidder for the Property or any part or parts thereof, Lender shall be entitled to purchase the same.

If, following the acceleration of the Note but prior to the foreclosure of this Mortgage against the Property, Borrower shall tender to Lender payment of an amount sufficient to pay the entire secured indebtedness, such tender shall be deemed to be a voluntary prepayment under the Note and, consequently, Borrower shall also pay to Lender any Prepayment Premium (to the extent permitted by the Laws of the State) required under the Note to be paid in order to prepay principal and, if such principal payment is made during any period when prepayment is prohibited by this Mortgage or the Note, the applicable charge or Prepayment Premium (to the extent permitted by the Laws of the State) shall be the maximum Prepayment Premium provided for in the Note; provided, however, that in no event shall any amount payable under this Section or any other Section relating to Prepayment Premiums or otherwise, when added to the interest otherwise payable on the Note and the other secured indebtedness, exceed the maximum interest permitted under applicable law.

25. UCC REMEDIES. During the continuance of an Event of Default, Lender may exercise its rights of enforcement with respect to the Fixtures and Personal Property under the UCC, and in conjunction with, in addition to or in substitution for those rights and remedies:

(a) Written Notice mailed to Borrower as provided herein ten (10) days prior to the date of public sale of the Fixtures and Personal Property or prior to the date after which private sale of the Fixtures and Personal Property will be made shall constitute reasonable notice;

(b) any sale made pursuant to the provisions of this Section shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with the sale of the Property under power of sale as provided herein upon giving the same notice with respect to the sale of the Fixtures and Personal Property hereunder as is required for such sale of the Property under power of sale;

(c) in the event of a foreclosure sale, whether made under the terms hereof or under judgment of a court, the Fixtures and Personal Property and the Property may, at the option of Lender, be sold as a whole;

(d) it shall not be necessary that Lender take possession of the Fixtures and Personal Property or any part thereof prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that the Fixtures and Personal Property or any part thereof be present at the location of such sale;

(e) prior to application of proceeds of disposition of the Fixtures and Personal Property to the secured indebtedness, such proceeds shall be applied to the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like, and the Reasonable Attorneys' Fees and other legal expenses incurred by Lender;

(f) any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to nonpayment of the indebtedness or as to the continuance of any Event of Default, or as to Lender having declared all of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, or as to any other act or thing having been duly done by Lender, shall be taken as prima facie evidence of the truth of the facts so stated and recited;

(g) Lender 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 Lender, including the sending of notices and the conduct of the sale, but in the name and on behalf of Lender; and

(h) this Mortgage covers Goods which are or are to become Fixtures related to the Real Property, and covers As-Extracted Collateral related to the Real Property. 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. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records in the Office of the County Clerk where the Property (including said fixtures) is situated. This Mortgage shall also be effective as a financing statement with respect to all As-Extracted Collateral included within the Real Property (including, without limitation, all oil, gas, other minerals, and other substances of value which may be extracted from the earth and all accounts arising out of the sale at the wellhead or minehead thereof), and is to be filed for record in the real estate records of the county where the Property is situated. The mailing address of Borrower is set forth in Section 43 of this Mortgage and the address of Lender from which information concerning the security interest may be obtained is the address of Lender set forth in Section 43 of this Mortgage.

26. PROTECTION OF LENDER'S SECURITY. Borrower shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Borrower for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Borrower further waives and releases (a) all errors, defects and imperfections in any proceedings instituted by Lender under the Note, this Mortgage or any of the other Loan Documents; (b) all benefits that might accrue to Borrower by virtue of any present or future laws exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale under civil process, or extension, exemption from civil process or extension of time for payment; and (c) all notices not specifically required by this Mortgage of Event of Default, or of Lender's exercise, or election to exercise, any option under this Mortgage. At any time after the occurrence of an Event of Default hereunder, Lender, or Lender's agents or contractors, is authorized, without notice and in Lender's sole discretion, to enter upon and take possession of the Property or any part thereof, and to perform any acts which Lender deems necessary or proper to conserve the security interest herein intended to be provided by the Property, to operate any

business or businesses conducted thereon, and to collect and receive all Rents thereof and therefrom, including those past due as well as those accruing thereafter.

27. APPOINTMENT OF RECEIVER. If, during the continuance of an Event of Default hereunder, Lender deems, in Lender's sole discretion, that a receivership may be necessary to protect the Property or its Rents, whether before or after maturity of the Note and whether before or at the time of or after the institution of foreclosure or suit to collect the Loan or to enforce this Mortgage or any of the other Loan Documents, Lender, as a matter of strict right and regardless of the value of the Property or the amounts due hereunder or secured hereby, or of the solvency of any party bound for the payment of such indebtedness, shall have the right, upon ex parte application and without notice to anyone, and by any court having jurisdiction, to the appointment of a receiver to take charge of, manage, preserve, protect and operate the Property, to collect the Rents thereof, to make all necessary and needful repairs, and to pay all taxes, assessments, insurance premiums and other such charges against and expenses of the Property, and to do such other acts as may by such court be authorized and directed, and after payment of the expenses of the receivership and the management of the Property, to apply the net proceeds of such receivership in reduction of the Loan or in such other manner as the said court shall direct notwithstanding the fact that the amount owing thereon may not then be due and payable or the said Loan is otherwise adequately secured. Such receivership shall, at the option of Lender, continue until full payment of all sums hereby secured or until title to the Property shall have passed by sale under this Mortgage. Borrower hereby specifically waives its right to object to the appointment of a receiver as aforesaid and hereby expressly agrees that such appointment shall be made as an admitted equity and as a matter of absolute right to Lender.

28. RIGHTS AND REMEDIES CUMULATIVE; FORBEARANCE NOT A WAIVER. The rights and remedies herein provided are cumulative, and Lender, as the holder of the Note and of every other obligation secured hereby, may recover judgment thereon, issue execution therefor and resort to every other right or remedy available at law or in equity, without first exhausting any right or remedy available to Lender and without affecting or impairing the security of any right or remedy afforded hereby, and no enumeration of special rights or powers by any provisions hereof shall be construed to limit any grant of general rights or powers, or to take away or limit any and all rights granted to or vested in Lender by law or equity. Borrower further agrees that no delay or omission on the part of Lender to exercise any rights or powers accruing to it hereunder shall impair any such right or power, or shall be construed to be a waiver of any such Event of Default hereunder or an acquiescence therein; and every right, power and remedy granted herein or by law or equity to Lender may be exercised from time to time as often as Lender deems expedient.

Lender may resort to any security given by this Mortgage or to any other security now existing or hereafter given to secure the payment of the Loan, in whole or in part, and in such portions and in such order as may seem best to Lender in its sole discretion, and any such action shall not be considered as a waiver of any of the rights, benefits, liens or security interests evidenced by this Mortgage. To the full extent Borrower may do so, Borrower agrees that Borrower will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force pertaining to the rights and remedies of sureties or providing for any appraisement, valuation, stay, extension or redemption, and Borrower, for Borrower and Borrower's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Property, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisement, stay of execution, notice of intention to mature or declare due the whole of the Loan, notice of election to mature or declare due the whole of the Loan and all rights to a marshaling of the assets of Borrower, including the Property, or to a sale in inverse order of alienation in the event of foreclosure of the liens and security interests hereby created. Borrower shall not have or assert any right under any statute or

rule of law pertaining to the marshaling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents or other matters whatever to defeat, reduce or affect the right of Lender under the terms of this Mortgage to a sale of the Property for the collection of the Loan without any prior or different resort for collection, or the right of Lender under the terms of this Mortgage to the payment of such indebtedness out of the proceeds of sale of the Property in preference to every other claimant whatever. If any law referred to in this Section and now in force, of which Borrower or Borrower's heirs, devisees, representatives, successors and assigns and such other persons claiming any interest in the Property 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. Notwithstanding the existence of any other liens or security interests or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which the indebtedness secured hereby is satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Mortgage and any party who now or hereafter acquires a lien or security interest in the Property and who has actual or constructive notice of this Mortgage hereby expressly waives and relinquishes any and all rights to demand or require the marshaling of liens or the marshaling of assets by Lender in connection with the exercise of any of the remedies provided herein or permitted by applicable law. Borrower expressly waives and relinquishes any and all rights and remedies Borrower may have or be able to assert by reason of laws relating to the rights and remedies of sureties or guarantors.

29. MODIFICATION NOT AN IMPAIRMENT OF SECURITY. Lender, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior mortgages, deeds of trust, or other liens thereon, may release any part of the security described herein or may release any person or entity liable for the Loan without in any way affecting the priority of this Mortgage, to the full extent of the Loan remaining unpaid hereunder, upon any part of the security not expressly released. Lender may, at its option and within Lender's sole discretion, also agree with any party obligated on the Loan or having any interest in the security described herein, to extend the time for payment of any part or all of the Loan, and such agreement shall not, in any way, release or impair this Mortgage, but shall extend the same as against the title of all parties having any interest in said security, which interest is subject to this Mortgage.

30. PROPERTY MANAGEMENT AND LEASING. The exclusive manager of the Property shall be Borrower, Casto Southeast Realty Services LLC, or such other exclusive manager as may be first approved in writing by Lender, not to be unreasonably withheld, conditioned or delayed. The exclusive leasing agent of the Property, shall be Jeffrey R. Anderson Real Estate, Inc., or such other leasing agent as may be first approved in writing by Lender, not to be unreasonably withheld, conditioned or delayed. The maximum property management fee shall be four percent (4%) of gross revenues from the Property. The management and leasing contracts (or in the absence of any such written contract, a letter so stating and further identifying the name of the person or entity charged with the responsibility for managing and/or leasing the Property) shall be subordinate to this Mortgage, and satisfactory to and subject to the prior written approval of Lender, not to be unreasonably withheld, conditioned or delayed, throughout the term of the Loan. The subordination of the management and/or leasing agreement(s) shall give Lender the right to terminate such management and/or leasing agreement(s) during the continuance of an Event of Default under the Loan Documents or for fraud or willful misconduct by the manager or leasing agent. Notwithstanding the foregoing, provided no Event of Default has occurred and is continuing, any property manager or leasing agent approved by J.P. Morgan Investment Management shall be deemed satisfactory to Lender.

31. MODIFICATION NOT A WAIVER. In the event Lender (a) releases, as aforesaid, any part of the security described herein or any person or entity liable for the Loan; (b) grants an extension of time

for the payment of the Note; (c) takes other or additional security for the payment of the Note; or (d) waives or fails to exercise any rights granted herein, in the Note or any of the other Loan Documents, any said act or omission shall not release Borrower, subsequent purchasers of the Property or any part thereof from any obligation or any covenant of this Mortgage, the Note or any of the other Loan Documents, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any other Event of Default then made or any subsequent Event of Default.

32. TRANSFER OF PROPERTY OR CONTROLLING INTEREST IN BORROWER; ASSUMPTION.

(a) Except as expressly set forth in this Section 32 and Section 38(b) hereof, and except for the Permitted Exceptions, Occupancy Leases and any mechanics' liens and tax liens as may be permitted under the terms of the Loan Documents, without the prior written consent of Lender, the sale, transfer, assignment or conveyance of all or any portion of the Property, or the transfer, assignment or conveyance of a controlling interest in Borrower or its general partner or managing member, whether voluntary or by operation of law, without the prior written consent of Lender, shall constitute an Event of Default hereunder, and entitle Lender, at Lender's sole option, to accelerate all sums due on the Note, together with any Prepayment Premiums (to the extent permitted by the Laws of the State), late payment charges or any other amounts secured hereby. Lender may, however, elect to waive the option to accelerate granted hereunder if, prior to any such sale, transfer, assignment or conveyance of the Property, the following conditions shall be fully satisfied: (i) Lender acknowledges in writing that, in Lender's sole discretion, the creditworthiness of the proposed transferee and the ability and experience of the proposed transferee to operate the Property are satisfactory to Lender; (ii) Lender and the proposed transferee shall enter into an agreement in writing that (1) the rate of interest payable on the Loan shall be at such rate as Lender shall determine, (2) the repayment schedule as set forth in the Note shall be modified by Lender, in Lender's sole discretion, to initiate amortization or modify the existing amortization schedule in order to amortize the then remaining unpaid principal balance of the Note over a period of time as determined by Lender, in Lender's sole discretion, without a change in the maturity date of the Note, and (3) the proposed transferee acquiring title to the Property shall assume all obligations of Borrower under the Note, this Mortgage and the other Loan Documents in writing and an assumption fee, to be determined by Lender in Lender's sole discretion (not to exceed one percent (1%) of the outstanding principal balance of the Note), may be charged by Lender; (iii) Lender shall receive, for Lender's review and approval, copies of all transfer documents; (iv) Borrower or the transferee shall pay all actual and reasonable out-of-pocket costs and expenses in connection with such transfer and assumption, including, without limitation, all fees and expenses incurred by Lender; (v) no Event of Default, or event which, with notice or the passage of time or both, could result in an Event of Default, has occurred hereunder or under any of the other Loan Documents; and (vi) any other rental achievement threshold required in the Application or the Loan Documents has been satisfied.

(b) Borrower, or any subsequent owner of the Property or any portion thereof, shall do all things necessary to preserve and keep in full force and effect its and their legal existence, franchises, rights and privileges as a corporation, partnership or limited liability company, as the case may be, under the Laws of the state of its formation and its right to own property and transact business in the State. Neither Borrower nor any subsequent owner of the Property or any portion thereof, shall amend, modify, transfer, assign or terminate the applicable governing documents for such entity, including its partnership agreement, certificate of partnership, operating agreement, articles of organization, regulations, articles of incorporation or bylaws, as the case may be (as applicable, the "Governing Documents"), of Borrower or such subsequent owner without the prior written consent of Lender.

Borrower, or such subsequent owner of the Property, shall provide Lender with copies of any proposed amendment to its applicable Governing Documents, so that Lender may, in Lender's sole discretion, determine whether such amendment adversely affects Lender, the Property or the security value thereof. Provided, however, that any amendment, modification, transfer, assignment or termination of Borrower's applicable Governing Documents or any other action pursuant to which the current general partner or managing member of Borrower shall either: (i) cease to be the general partner or managing member of Borrower; or (ii) cease to own or maintain a partnership or membership interest in Borrower equal to or greater than its partnership or membership interest at the time this Mortgage is executed, shall be deemed to have a material adverse effect upon Lender and the Property, and shall be an Event of Default hereunder.

(c) Borrower shall not change its name or identity in any manner which may make any financing or continuation statement filed in connection with the Loan seriously misleading within the meaning of Section 9-506 of the UCC (or any other applicable portion of the UCC) enacted in the State or change its jurisdiction of organization unless Borrower shall have delivered to Lender Written Notice thereof not less than thirty (30) days before the effective date of such change and shall have taken all action which Lender determines to be reasonably necessary or desirable to confirm and protect Lender's liens, security interests and rights under this Mortgage and the perfection and priority thereof. Borrower will not change its principal places of business unless it shall have given Lender prior Written Notice of its intent to do so not less than thirty (30) days in advance of the effective date of such change. Borrower shall bear all costs incurred by Lender in connection with any such change including, without limitation, Reasonable Attorneys' Fees.

(d) In the event the ownership of the Property, or any part thereof, shall become vested in a person or entity other than Borrower, whether with or without the prior written consent of Lender, Lender may, without notice to Borrower, deal with such successor or successors in interest with reference to the Property, this Mortgage and the other Loan Documents, in the same manner and to the same extent as with Borrower without in any way vitiating or discharging Borrower's liability hereunder or under any of the Loan Documents. No sale, transfer or conveyance of the Property, no forbearance on the part of Lender and no extension of time given by Lender to Borrower for the payment of the Note shall operate to release, discharge, modify, change or affect the original liability of Borrower, either in whole or in part, unless expressly set forth in writing executed by Lender. Notwithstanding anything contained herein to the contrary, Borrower hereby waives any right it now has or may hereafter have to require Lender to prove an impairment of its security as a condition to the exercise of Lender's rights under this Section 32.

(e) A sale, transfer, assignment or conveyance within the meaning of this Section shall be deemed to include, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a tenant under an Occupancy Lease 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 leases or any Rents; (iii) if Borrower, any general partner or managing member of Borrower or any general partner of any general partner or managing member of Borrower, is a corporation, the voluntary or involuntary sale, conveyance, transfer or pledge of such corporation's stock (or the stock of any corporation directly or indirectly controlling such corporation by operation of law or otherwise), or the creation or issuance of new stock by which an aggregate of more than ten percent (10%) of such corporation's stock shall be vested in a party or parties who are not now stockholders; and (iv) if Borrower or any general partner or managing member of Borrower, is a limited partnership, general partnership, limited liability partnership, limited liability

company or joint venture, the change, removal or resignation of a general partner, managing partner or managing member, or the transfer or pledge of the interest of any general partner, managing partner or managing member or any profits or proceeds relating to such interest.

33. FURTHER ENCUMBRANCE PROHIBITED; SUBROGATION. So long as the Note remains unpaid, Borrower shall not, either voluntarily or involuntarily: (i) permit the Property or any part thereof to become subject to any secondary or subordinate lien, mortgage, deed of trust, security interest or encumbrance of any kind whatsoever, or (ii) permit the encumbrance, including mezzanine financing, of any direct interest in Borrower, without the prior written consent of Lender, and any such imposition of any secondary lien, mortgage, including mezzanine financing, deed of trust, security interest or encumbrance without the approval of Lender shall constitute an Event of Default hereunder, and entitle Lender, at Lender's sole option, to declare the outstanding principal balance of the Note, all accrued and unpaid interest thereon, Prepayment Premiums (to the extent permitted by the Laws of the State), late payment charges and any other amounts secured hereby to be and become immediately due and payable in full. In the event that Lender shall hereafter give its written consent to the imposition of any such secondary lien, mortgage, deed of trust, security interest or other encumbrance upon the Property or any direct interest in Borrower, then Lender, at Lender's sole option, shall be entitled to accelerate the maturity of the Note and exercise any and all remedies provided and available to Lender hereunder and in the other Loan Documents in the event that the holder of any such secondary lien or encumbrance shall institute foreclosure or other proceedings to enforce the same; it being understood and agreed that an Event of Default under any instrument or document evidencing, securing or secured by any such secondary lien or encumbrance shall be and constitute an Event of Default hereunder. In the event all or any portion of the proceeds of the Loan are used for the purpose of retiring debt or debts secured by prior liens on the Property, Lender shall be subrogated to the rights and lien priority of the holder or holders of the lien or liens so discharged.

34. CONVEYANCE OF MINERAL RIGHTS PROHIBITED. Borrower agrees that the making of any oil, gas or mineral lease, or the sale or conveyance of any mineral interest or right to explore for minerals under, through or upon the Property, would impair the value of the Property, and that Borrower shall have no right, power or authority to lease the Property, or any part thereof, for oil, gas or other mineral purposes, or to grant, assign or convey any mineral interest of any nature, or the right to explore for oil, gas and other minerals, without first obtaining Lender's express written permission therefor, which permission shall not be valid until recorded among the Public Records of Hamilton County, in the State. Borrower further agrees that if Borrower shall make, execute, or enter into any such lease or attempt to grant any such mineral rights without such prior written permission of Lender, then Lender shall have the option, without notice, to declare the same to be an Event of Default hereunder, and to declare the Loan immediately due and payable in full. Whether or not Lender shall consent to such lease or grant of mineral rights, Lender shall receive the entire consideration to be paid for any such lease or grant of mineral rights, with the same to be applied to the Loan notwithstanding the fact that the amount owing thereon may not then be due and payable or that the Loan is otherwise adequately secured; provided, however, that the acceptance of such consideration shall in no way impair the lien of this Mortgage on the Property or cure any existing Monetary Default.

35. ESTOPPEL CERTIFICATION BY BORROWER. Borrower, upon request of Lender therefor made not more frequently than two (2) times in any calendar year unless an Event of Default has occurred, either personally or by mail, shall certify in writing to Lender (or any party designated by Lender), in a form reasonably satisfactory to Lender or such designee, the amount of principal and interest then outstanding under the terms of the Note and any other sums due and owing under this Mortgage or any of the other Loan Documents, and whether, to Borrower's actual knowledge, any offsets or defenses exist against the Loan. Such certification shall be made by Borrower within ten (10) days if the request is made personally or within twenty (20) days if the request is made by mail.

36. CROSS-DEFAULT. The Note is also secured by the terms, conditions and provisions of the Assignment and, additionally, may be secured by contracts or agreements of guaranty or other security instruments. The terms, covenants, conditions and agreements of each security instrument shall be considered a part hereof as fully as if set forth herein verbatim. Any Event of Default under this Mortgage or any of the other Loan Documents shall constitute an Event of Default hereunder and under each of the other Loan Documents. Notwithstanding the foregoing, the enforcement or attempted enforcement of this Mortgage or any of the other Loan Documents now or hereafter held by Lender shall not prejudice or in any manner affect the right of Lender to enforce any other Loan Document; it being understood and agreed that Lender shall be entitled to enforce this Mortgage and any of the other Loan Documents now or hereafter held by it in such order and manner as Lender, in its sole discretion, shall determine.

37. EXAMINATION OF BORROWER'S RECORDS. Borrower will maintain complete and accurate books and records showing in detail the income and expenses of the Property, and from time to time upon request by Lender, will permit Lender and its agents, contractors or representatives to examine said books and records and all supporting vouchers and data during normal business hours and upon reasonable prior notice, in such place as such books and records are customarily kept. Borrower shall furnish to Lender, within one hundred twenty (120) days after the close of each respective fiscal period, unaudited annual and semi-annual financial statements, including income statements and balance sheets for Borrower, the Property and all Major Tenants (if required under the Major Tenant Occupancy Leases or if such financial information is otherwise available to Borrower). These statements shall be in form reasonably acceptable to Lender, shall be prepared in accordance with modified accrual basis accounting, shall include a rent roll, certified as true and correct by Borrower and include the most current annual sales figures for the Property and all Major Tenants of the Property (if required under the Major Tenant Occupancy Leases or if such financial information is otherwise available to Borrower). These statements shall be certified as being complete, correct and accurate by Borrower or an authorized representative of Borrower. In the event Borrower fails to provide such statements to Lender within the time prescribed above, Borrower shall pay Lender the sum of Two Hundred Dollars (\$200) in administrative expenses for each successive month or partial month beyond the one hundred twenty (120) day period for which the statements are delinquent. During the continuance of an Event of Default hereunder, Lender shall have the right to require that said financial statements of Borrower be audited and certified by a certified public accountant acceptable to Lender, at the sole cost and expense of Borrower.

At the request of Lender, but under no circumstances more often than once a quarter or more than three (3) times during the term of the Loan (provided no Event of Default has occurred and is continuing under the Loan Documents), Borrower shall furnish to Lender (a) unaudited financial statements (balance sheet, income statement, cash flow statement and current rent roll) covering operation of the Property for periods other than those set forth in the preceding paragraph; (b) unaudited financial statements (balance sheets, income statements, and cash flow statements) for Borrower; and (c) a portfolio analysis showing annualized cash flow statements (including debt service payments) for all real properties owned by Borrower. In addition, at the request of Lender but under no circumstances more often than once a quarter during the term of the Loan (provided no Event of Default has occurred and is continuing) Borrower shall furnish to Lender a current rent roll for the Property. All such statements and rent rolls shall be certified to Lender to be complete, correct, and accurate by the individual for an individual's statements or by an authorized representative of the entity if the statements are for a partnership, corporation or limited liability company or other such entity.

38. ALTERATION, REMOVAL AND CHANGE IN USE OF PROPERTY PROHIBITED. Borrower covenants and agrees to permit or suffer none of the following without the prior written consent of Lender:

(a) Any structural alteration of, or addition to, the Improvements now or hereafter situated upon the Real Property, or the addition of any new buildings or other structure(s) thereto, other than the erection or removal of non-load bearing interior walls or alterations required by the terms of Occupancy Leases which have been approved by Lender or which are not subject to Lender's review, comment and approval; or

(b) The removal, transfer, sale or lease of the Fixtures and Personal Property, except that the renewal, replacement, substitution or removal of broken, obsolete or worn out Fixtures and Personal Property may be made in the normal course of business, provided, however, that each Fixture or item of Personal Property that is not broken, obsolete or worn-out shall be replaced or substituted with items of like or better quality, value and utility as the removed items; or

(c) The use of any of the Improvements now or hereafter situated on the Real Property for any purpose other than the Existing Use and related facilities.

39. FUTURE ADVANCES SECURED. This Mortgage shall secure not only existing indebtedness, but also future advances, whether such advances are obligatory or to be made at the option of Lender. Upon the request of Borrower, and at Lender's option prior to release of this Mortgage, Lender may make future advances to Borrower. All future advances with interest thereon shall be secured by this Mortgage to the same extent as if such future advances were made on the date of the execution of this Mortgage unless the parties shall agree otherwise in writing, but the total secured indebtedness shall not exceed at any one time a maximum principal amount equal to double the face amount of the Note plus interest and costs of collection, including court costs and Reasonable Attorneys' Fees. Any advances or disbursements made for the benefit or protection of or the payment of taxes, assessments, levies or insurance upon the Property, with interest on such disbursements as provided herein, shall be added to the principal balance of the Note and collected as a part thereof. To the extent that this Mortgage may secure more than one note, a default in the payment of any such note shall constitute a default in the payment of all such notes.

40. EFFECT OF SECURITY AGREEMENT. Borrower agrees to, and shall upon the request of Lender, execute and deliver to Lender, in form and content satisfactory to Lender, such financing statements, descriptions of property and such further assurances as Lender, in Lender's sole discretion, may from time to time consider necessary to create, perfect, continue and preserve the lien and encumbrances hereof, and the security interest granted herein, upon and in the Property; provided, however, that no such further assurance increases Borrower's obligations or liabilities under the Loan Documents or decreases Borrower's rights under the Loan Documents. Without the prior written consent of Lender, Borrower shall not create or suffer to be created, pursuant to the UCC, any other security interest in such real and personal property and fixtures described herein. During the continuance of an Event of Default hereunder or Borrower's breach of any other covenants or agreements between the parties entered into in conjunction herewith, Lender shall have the remedies of a secured party under the UCC as provided in Section 25, and at Lender's option, the remedies provided for in this Mortgage and the other Loan Documents. Lender, at the expense of Borrower, may cause such statements, descriptions and assurances, as herein provided in this Section 40, and this Mortgage, to be recorded and re-recorded, filed and refiled, at such times and in such places as may be required or permitted by law to so create, perfect and preserve the lien and encumbrance hereof upon all of the Property.

41. TERMS OF APPLICATION SURVIVE CLOSING. Intentionally Omitted.

42. SUCCESSORS AND ASSIGNS; TERMINOLOGY.

(a) The provisions hereof shall be binding upon Borrower and the heirs, personal representatives, trustees, successors and assigns of Borrower, and shall inure to the benefit of Lender,

its successors and assigns. Where more than one Borrower is named herein, the obligations and liabilities of said Borrower shall be joint and several.

(b) Wherever used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein: (i) the word "Borrower" shall mean Borrower and/or any subsequent owner or owners of the Property; (ii) the word "Lender" shall mean Lender or any subsequent holder or holders of this Mortgage; (iii) the word "Note" shall mean the Note(s) secured by this Mortgage; and (iv) the word "person" shall mean an individual, trustee, trust, corporation, partnership, limited liability company, limited liability partnership, joint venture or unincorporated association. As used herein, the phrase "Reasonable Attorneys' Fees" shall mean fees charged by attorneys selected by Lender based upon such attorneys' then prevailing hourly rates as opposed to any statutory presumption specified by any statute then in effect in the State. As used herein words of any gender shall include all other genders.

43. NOTICES. All notices, reports, requests or other written instruments required or permitted hereunder shall be in writing, signed by the party giving or making the same, and shall be sent hand-delivered, effective upon receipt, sent by United States Express Mail or by a nationally recognized overnight courier, effective upon receipt, or sent by United States registered or certified mail, postage prepaid, with return receipt requested, deemed effective on the earlier of the day of actual delivery as shown by the addressee's return receipt or the expiration of three (3) business days after the date of mailing, addressed to the party intended to receive the same at the address set forth below or at such other address as shall be given in writing by any party to another ("Written Notice"):

If to Borrower: CLP – SPF ROOKWOOD PAVILION, LLC
c/o Casto
191 W. Nationwide Boulevard, Suite 200
Columbus, Ohio 43215
Attention: Lisa Boveine

With a courtesy
copy to: ROOKWOOD ACQUISITION COMPANY LLC
c/o J.P. Morgan Investment Management Inc.
270 Park Avenue
New York, NY 10017
Attention: Chris Potavin

With a courtesy
copy to: STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, NY 10038
Attention: Brian Diamond, Esq.

If to Lender: NATIONWIDE LIFE INSURANCE COMPANY
One Nationwide Plaza, Fifth Floor – MC 1-05-701
Columbus, Ohio 43215
Attention: Real Estate Investments

44. GOVERNING LAW; WAIVER OF JURY TRIAL; SEVERABILITY. THE PARTIES HERETO, TO THE FULL EXTENT PERMITTED BY LAW, EACH HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES HEREBY THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING, INCLUDING, WITHOUT LIMITATION, ANY TORT ACTION, AGAINST EACH OTHER, ITS SUCCESSORS AND ASSIGNS, BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO OR IN CONNECTION WITH ANY OF THE LOAN DOCUMENTS, THE LOAN OR ANY COURSE OF CONDUCT, ACT, OMISSION, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, ANY PARTY'S DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH SUCH PARTY), IN CONNECTION WITH THE LOAN OR THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, IN ANY COUNTERCLAIM WHICH ANY PARTY MAY BE PERMITTED TO ASSERT THEREUNDER, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. IN NO EVENT SHALL ANY PARTY, ITS SUCCESSORS, ASSIGNS OR PARTICIPANTS BE LIABLE FOR SPECIFIC PERFORMANCE, ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS PROFITS OR OPPORTUNITY) AND BY ITS EXECUTION HEREOF, BORROWER AND LENDER HEREBY WAIVE ANY RIGHT TO CLAIM OR SEEK ANY SUCH DAMAGES. This Mortgage and the rights and obligations of the parties hereunder shall be governed by, and construed in accordance with, the internal laws of the State, without regard to principles of conflicts of laws. The parties hereto irrevocably (a) agree that

any suit, action or other legal proceeding arising out of or relating to this Mortgage may be brought in a court of record in the State or in the courts of the United States of America located in such State, (b) consent to the non-exclusive jurisdiction of each such court in any suit, action or proceeding, and (c) waive any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. If any clauses or provisions herein contained operate, or would prospectively operate, to invalidate this Mortgage, then such clauses or provisions only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect.

45. RIGHTS OF LENDER CUMULATIVE. The rights of Lender arising under the terms, covenants, conditions and agreements contained in this Mortgage shall be separate, distinct and cumulative, and none of them shall be in exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provisions, anything herein or otherwise to the contrary notwithstanding. If Borrower is comprised of more than one person or entity, then the liability of each such person and entity hereunder shall be joint and several.

46. MODIFICATIONS. This Mortgage cannot be changed, altered, amended or modified except by an agreement in writing and in recordable form, executed by both Borrower and Lender.

47. EXCULPATION. Notwithstanding anything contained herein to the contrary, the liability of Borrower is subject to the provisions contained in the Exculpation section of the Note, which are incorporated herein and made a part hereof by reference as if fully set forth herein.

48. FULL RECOURSE. Notwithstanding any provisions in this Mortgage to the contrary, including without limitation the provisions set forth in the section captioned "Exculpation" hereinabove, Borrower shall be personally liable for the entire indebtedness evidenced by this Mortgage (including all principal, interest and other charges) in the event (a) Borrower fails to obtain Lender's consent to any subordinate financing on the Property in violation of the Loan Documents; (b) Borrower or any entity comprising Borrower fails to obtain Lender's consent to any transfer of interests in the Property or transfers or changes in ownership or controlling interest as set forth in this Mortgage, in each case, in violation of the Loan Documents; (c) Borrower files a petition in bankruptcy under the U.S. Bankruptcy Code or other federal or state bankruptcy or insolvency law ("Bankruptcy Law") or for the appointment of a receiver or commences under any Bankruptcy Law proceedings for Borrower's relief or for the compromise, extension, arrangement or adjustment of Borrower's obligations; (d) there is a filing of an involuntary bankruptcy resulting from Borrower's breach of the Loan Documents or Borrower colludes in an involuntary bankruptcy proceeding filed against Borrower which is not dismissed within ninety (90) days after the filing of the same; (e) there is filed against Borrower any claim by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights Laws that is based on the Loan being deemed a preferential transfer; (f) in the event an Event of Default is then continuing under the Loan Documents and Borrower or any affiliate thereof challenges or disputes the validity or enforceability of any of the provisions of the Loan Documents, seeks to delay or impair the enforcement of Lender's remedial rights under the Loan Documents, or challenges the validity, enforceability or first priority of the liens and security interests securing payment of amounts owing or payable under the terms of the Loan Documents (unless prior to such challenge Borrower has either commenced turning over all revenue (including any security deposits) from the Property or Borrower has cooperated with the appointment of a receiver to preserve and protect the Property during the pendency of such challenge); or (g) Borrower violates any special purpose/ single asset provisions of the Loan Documents in material respects which violation results in a substantive consolidation of Borrower with any affiliate (other than Rookwood Holding Company LLC) in bankruptcy.

49. LENDER IS NOT A JOINT VENTURER OR PARTNER. Borrower and Lender acknowledge and agree that in no event shall Lender be deemed to be a partner or joint venturer with Borrower or any member of Borrower. Without limitation of the foregoing, Lender shall not be deemed to be a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document evidencing or securing any of the indebtedness secured hereby, or otherwise.

50. CAPTIONS. The captions set forth at the beginning of the various Sections of this Mortgage are for convenience only and shall not be used to interpret or construe the provisions of this Mortgage.

51. REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record along with an indemnification agreement in favor of Borrower that is reasonably satisfactory to Borrower and is executed by the holder of the Note, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower, at Lender's expense, will issue, in lieu thereof, a replacement Note or other Loan Document, 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.

52. SOLE DISCRETION OF LENDER. Wherever pursuant to this Mortgage Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide that arrangements or terms are satisfactory or not satisfactory shall be in the sole discretion of Lender and shall be final and conclusive, absent manifest error, except as may be otherwise expressly and specifically provided herein.

53. SECONDARY MARKET. Lender may, at any time, sell, transfer or assign the Note, this Mortgage, the Assignment and the other Loan Documents, and any or all servicing rights with respect thereto, or grant participations therein or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement. Lender may forward to each purchaser, transferee, assignee, servicer or participant (collectively, "Investor"), and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Loan and to Borrower and the Property, whether furnished by Borrower, or otherwise, as Lender determines necessary or desirable; provided, however, that any disclosure with regard to information of Borrower or any of its affiliates shall be made with due regard to the confidential nature of such information and any Investor and prospective Investor shall be informed of the confidential nature thereof.

[Remainder of Page Intentionally Left Blank]

SIGNATURE PAGE
TO
OPEN-END MORTGAGE AND SECURITY AGREEMENT

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

BORROWER:

CLP – SPF ROOKWOOD PAVILION, LLC,
a Delaware limited liability company

By: **ROOKWOOD HOLDING COMPANY LLC**, a
Delaware limited liability company, its sole member

By: /s/ Hilary J. Spann
Name: Hilary J. Spann
Title: Vice President

STATE OF NEW YORK:

: ss:

COUNTY OF NEW YORK:

Sworn to and acknowledged before me, a Notary Public in and for said state, by Hilary J. Spann, the Vice President of ROOKWOOD HOLDING COMPANY LLC, a Delaware limited liability company, the sole member of CLP – SPF ROOKWOOD PAVILION, LLC, a Delaware limited liability company, for and on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunder subscribed my name and affixed my notarial seal on this 26 day of June, 2013.

/s/ Esther Mary Krivda
Notary Public

Prepared by and after recording
return to:

Marci L. Morgan Cox, Esq.
Dinsmore & Shohl LLP
255 E. Fifth Street, Suite 1900
Cincinnati, Ohio 45202

EXHIBIT A

Legal Description

Cross-Reference:

Official Record Book 12355, Page 143 (Mortgage)
Official Record Book 12355, Page 188 (ALR)
Hamilton County, Ohio records.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

ASSUMPTION AND MODIFICATION AGREEMENT

This ASSUMPTION AND MODIFICATION AGREEMENT (this "Agreement") dated this 6th day of January, 2017 by and among **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation ("Lender"), **CLP-SPF ROOKWOOD PAVILION LLC**, a Delaware limited liability company ("Original Borrower"), and **HGREIT II MADISON ROAD LLC**, a Delaware limited liability company ("Borrower").

W I T N E S S E T H:

WHEREAS, Lender made a loan (the "Loan") to Original Borrower in the original principal amount of \$29,000,000.00, and in connection with the Loan, Original Borrower executed and delivered to Lender (a) one certain Promissory Note, dated July 1, 2013, payable to the order of Lender, in the original principal sum of \$29,000,000.00, with interest and principal payable as therein provided ("Note"), the payment of which Note is secured by, *inter alia*, an Open-End Mortgage and Security Agreement, dated July 1, 2013, recorded as Document No. 13-0089951, Official Record Book 12355, Page 143 in the Real Property Records of Hamilton County, Ohio, encumbering certain real and personal property described therein (all real and personal property rights so encumbered collectively being the "Property") including, without limitation, the land described in Exhibit A attached hereto and made a part hereof (the "Original Mortgage"), as affected by that certain Letter Agreement dated July 1, 2013 executed and delivered by Lender and acknowledged by Original Borrower (the "Side Letter" and the Original Mortgage, as modified by the Side Letter, the "Mortgage"), reference being here made to the Mortgage and the record thereof for all purposes;

WHEREAS, Original Borrower also executed (i) an Assignment of Leases, Rents and Profits, dated July 1, 2013, recorded as Document No. 13-0089952, Official Record Book 12355, Page 188 in the Real Property Records of Hamilton County, Ohio (the "Assignment of Leases"), reference being here made to the

Assignment of Leases and the record thereof for all purposes, and (ii) an Indemnity Agreement, dated July 1, 2013, (the "Original Indemnity");

WHEREAS, in connection herewith, Borrower has executed and delivered to Lender that certain Indemnity Agreement of even date herewith in form and substance satisfactory to Lender (the "Indemnity");

WHEREAS, the Note, the Mortgage, the Assignment of Leases, the Original Indemnity and all other documents executed by Original Borrower in connection with or securing or evidencing the Loan are collectively referred to as the "Loan Documents";

WHEREAS, this Agreement, the Indemnity and all other documents executed and delivered in connection with Borrower's assumption of the Loan are collectively referred to as the "Assumption Documents";

WHEREAS, the Mortgage provides that the indebtedness secured by the Mortgage may, at the option of the holder of the same, be accelerated if Original Borrower or any assignee of Original Borrower sells or conveys any or all of the Property without the consent of Lender;

WHEREAS, Lender has been requested to consent to the transfer and conveyance of the Property from Original Borrower to Borrower and to the assumption of Original Borrower's obligations under the Loan Documents by Borrower and Lender is willing to so consent upon compliance with the terms and provisions of this Agreement; and

WHEREAS, Lender is the owner and holder of the Note, and Original Borrower is the owner of the legal and equitable title to the Property;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Conveyance of Property. Original Borrower is concurrently herewith conveying the Property to Borrower. For purposes of this Agreement, the transfer and conveyance of the Property shall be deemed to have occurred simultaneously with the recordation in the appropriate real property records of Hamilton County, Ohio, of the deed or deeds by which title to the Property is conveyed by Original Borrower to Borrower. Borrower hereby acknowledges and agrees that title to the Property and Borrower's interest therein, is encumbered by and subject to the liens, security interests, assignments and other terms, covenants, restrictions and provisions of the Loan Documents.

2. Assumption by Borrower. Borrower hereby acknowledges and agrees that it hereby (i) assumes and promises to keep and perform all covenants and obligations on Original Borrower's part to be performed under all of the Loan Documents to the same extent as if Borrower were the original signatory thereto, and (ii) assumes and promises to pay the outstanding principal balance of the Note, with interest thereon, and all other sums required to be paid to Lender in accordance with the provisions of the Note and other Loan Documents, and to perform, comply with and abide by each and every one of the covenants, agreements and conditions contained and set forth in the Loan Documents.

3. Conditions Precedent to Lender's Consent to Assumption by Borrower. Lender's consent and approval as set forth in Paragraph 4 below is conditioned upon the satisfaction of the following conditions precedent and, by execution and delivery of this Agreement, Lender hereby acknowledges and agrees that, subject to Section 7 hereof, such conditions precedent have been satisfied:

- (a) Original Borrower and Borrower shall have executed and delivered this Agreement to Lender.
- (b) Borrower shall have executed and delivered the Indemnity to Lender.
- (c) Original Borrower or Borrower shall have paid a total transfer fee for the transfer contemplated by this Agreement equal to one-half percent (0.5%) of the outstanding principal balance of the Note at the time of such transfer to Lender in connection with the transfer of the Property and the assumption of the Loan by Borrower less the \$3,000 processing fee and shall have reimbursed Lender for any and all reasonable out-of-pocket costs and expenses and third-party costs incurred by Lender for the processing of said transfer, including, without limitation, counsel fees, recording and transfer fees, and title insurance costs and premiums. Original Borrower, Borrower and Lender agree that should the Loan Documents contain any provision defining or limiting a transfer fee or assumption fee, this Paragraph 3(c) shall control and supersede such provision.
- (d) Borrower shall have established an escrow with Lender for real estate taxes, assessments and insurance premiums in amounts determined by Lender to be held by Lender pursuant to Section 17 of the Mortgage.
- (e) Lender shall have received and approved such ownership documents and organizational documents as are requested by Lender.
- (f) Borrower shall have, at its sole cost and expense, obtained and delivered to Lender endorsements to Lender's title policy in accordance with Paragraph 9 below.
- (g) Borrower shall have executed and delivered to Lender a Certification of Non-Foreign Status in a form acceptable to Lender.
- (h) Borrower shall have delivered to Lender financing statements and/or financing statement amendments in form and substance reasonably satisfactory to Lender in all places necessary in connection with the perfection of Lender's security interest in the fixtures and other property described in the Mortgage.
- (i) Original Borrower shall have executed and contemporaneously filed of record, in the appropriate real property records of Hamilton County, Ohio, a deed or deeds in the form approved by Lender, pursuant to which title to the Property shall be conveyed to Borrower.
- (j) There shall be no secondary or subordinate financing of the Property in connection with the conveyance and transfer of the Property by Original Borrower to Borrower and no other changes to the status of title to the Property not approved by Lender.
- (k) Borrower shall deliver to Lender in form and substance satisfactory to Lender, an opinion of counsel to Borrower, stating, *inter alia*, that (i) Borrower is duly formed, legally existing and in good standing under the laws of the State of Delaware and is duly authorized to transact business in the State of Ohio; (ii) the execution of this Agreement and the other documents in connection with the assumption and modification of the Loan have been duly authorized by Borrower; (iii) Borrower has all requisite authority to own, lease and operate the Property; (iv) Borrower has all requisite authority to assume the obligations of Original Borrower pursuant to this Agreement; and (v) this Agreement and the other documents executed by Borrower in connection with the assumption and modification of the Loan have been duly executed and delivered by Borrower and that the Loan

Documents, as modified by this Agreement, are the legal, valid and binding obligations of Borrower enforceable against Borrower in accordance with their terms.

(l) Hines Interests Limited Partnership, a Delaware limited partnership ("HILP") shall manage the Property pursuant to that certain Property Management and Leasing Agreement dated as of January 6, 2017 between Borrower and HILP in form approved by Lender, and shall deliver an Acknowledgment of Property Manager in form and substance satisfactory to Lender.

(m) Borrower shall have delivered to Lender evidence of insurance coverage for the Property in form and substance satisfactory to Lender.

4. Consent to Assumption of Loan by Borrower. Subject to the conditions set forth in Paragraph 3 above and pursuant to Section 32 of the Mortgage:

(a) Lender hereby consents to Borrower's purchase of the Property from Original Borrower, the conveyance of the Property to Borrower, and the assumption by Borrower of Original Borrower's covenants and obligations under the Loan Documents. Lender's consent to the transfer of the Property to Borrower is not intended to be and shall not be construed as consent to any subsequent transfer which requires Lender's consent pursuant to the terms of the Loan Documents.

(b) From and after the date hereof, Lender hereby releases, remises, acquits and forever discharges Original Borrower, together with its employees, agents, representatives, consultants, attorneys, fiduciaries, servants, officers, directors, partners, predecessors, successors and assigns, subsidiary corporations, parent corporations, and related corporate divisions (all of the foregoing hereinafter called the "Original Borrower's Released Parties"), from any and all actions and causes of action, judgments, executions, suits, debts, claims, demands, liabilities, obligations, damages and expenses of any and every character, known or unknown, direct and/or indirect, at law or in equity, of whatsoever kind or nature, accruing under the Loan Documents, and/or for or because of any matter or things done, omitted or suffered to be done by any of the Original Borrower's Released Parties, and in any way directly or indirectly arising out of or in any way connected to the Note, the Mortgage, the Assignment of Leases, the Original Indemnity or any other Loan Document, or any of the transactions associated therewith, or the Property, provided, however, that the foregoing release shall not cover any obligation or liability of Original Borrower under the Loan Documents arising prior to the date hereof (other than the obligations to pay principal and interest due under the Note) or any of the representations, covenants and obligations of Original Borrower contained in Paragraph 6 of this Agreement. The burden of proof under this subsection with regard to establishing the date upon which such obligations for payment, performance or indemnification arose shall be upon Original Borrower.

(c) Lender, Original Borrower and Borrower each hereby acknowledge and agree that the sale and transfer of the Property by Original Borrower to Borrower, and Lender's consent thereto pursuant to this Agreement, constitutes a transfer of the Property without a change in the terms of the Loan permitted by Section 32 of the Mortgage, and therefore, all permitted transfer rights thereunder have been extinguished.

(d) Lender shall amend its records to indicate that Borrower is the owner of the Property.

5. Modification of the Loan Documents.

(a) All references in the Loan Documents to the "Indemnity" shall mean the Original Indemnity executed and delivered by Original Borrower and the Indemnity executed and delivered by Borrower, as the context may require.

(b) Sections 2 and 3 of the Side Letter are hereby deleted in their entirety and of no further force or effect.

(c) Section 9(b) of the Note is hereby deleted in its entirety and replaced with the following:

"(b) failure to pay any taxes which accrue prior to Lender taking control of the Property or to pay assessments, charges for labor or materials or any other charges that could result in liens on all or any portion of the Property; notwithstanding the foregoing, any such failure shall only trigger recourse liability if (A) at the time of such failure, Borrower had sufficient cash flow from the Property to pay such amounts but failed to do so; (B) Borrower had insufficient cash flow from the Property to pay any amounts owed prior to delinquency and failed to give Lender Written Notice thereof; or (C) Borrower escrows such amounts with Lender and Borrower has not made all required escrow deposits;"

(d) Section 32 of the Mortgage is hereby amended to include the following subparagraph (f):

"(f) Lender shall permit (i) the transfer, conveyance or pledge of direct or indirect limited partnership interests in the Fund LP, or (ii) the transfer, conveyance, or pledge of no more than forty-nine percent (49%) of the membership interests in Borrower, in the aggregate; provided, however, that for each such action all of the following conditions are satisfied:

a. After giving effect to each and every such action, the following conditions shall be satisfied:

1. the Main Fund and Fund LP continue to own, directly or indirectly, at least fifty-one percent (51%) of the beneficial ownership interests of Borrower;
2. the Main Fund and Fund LP shall continue to directly or indirectly Control Borrower; and
3. the Main Fund and Fund LP shall continue to be advised, directly or indirectly, by Hines Family in accordance with an Advisory Agreement;

b. Hines and/or its affiliates shall continue to hold a \$2,200,000 investment in the Main Fund (subject to devaluation due to declines in market values);

c. Each transferee of a direct interest in Borrower or a direct interest in Fund LP complies with Lender's Patriot Act and OFAC requirements;

d. Each transferee of an interest in the Main Fund (i) has been subject to commercially reasonable efforts taken by the Main

Fund's transfer agent and independent sales network to comply with Patriot Act and OFAC requirements; and (ii) with respect to a transferee of a five percent (5%) or greater ownership interest, complies with Lender's Patriot Act and OFAC requirements;

- e. No Event of Default has occurred under the Loan Documents;
- f. Borrower continues to hold title to the Property, and continues to be a single purpose entity after such transfer; and
- g. Borrower shall provide prompt written notice within thirty (30) days following (i) any transfer of five percent (5%) or more of any direct or indirect interest in the Main Fund or Fund LP to a single transferee and (ii) any transfer or pledge of five percent (5%) or more of the membership interests in Borrower.

The conditions to transfer described above shall not apply to the transfer, assignment, pledge, redemption or issuance of the publicly offered ownership interests in the Main Fund (collectively, the "Permitted Main Fund Transfers"), all of which shall be freely permitted without Lender's consent, provided that, after giving effect to each such action, an Advisory Agreement remains in full force and effect. Notwithstanding the foregoing, in the event that the independent directors of the Board of Directors of the Main Fund remove Hines Global REIT II Advisors, LP (or a successor advisor Controlled by the Hines Family) for a failure to perform under an Advisory Agreement in fulfillment of the independent directors' obligations under Section 9.2 of the Articles of Amendment and Restatement of the Main Fund (the "Charter") to, among other things, annually review the performance of the Advisor (a "Permitted Removal"), then the Permitted Main Fund Transfers shall be freely permitted without Lender's consent so long as (A) a replacement advisory agreement has been entered into with a Qualified Advisor, (B) within ten (10) days of such replacement Lender has been provided written notice of such replacement Qualified Advisor together with a copy of the replacement advisory agreement and a copy of the minutes from the meeting of the Board of Directors of the Main Fund during which the Permitted Removal was approved (which minutes Lender agrees to keep confidential unless required to be disclosed by any governmental agency or applicable law), and (C) within fifteen (15) days of such replacement, the Qualified Advisor has complied with Lender's Patriot Act and OFAC requirements. A Permitted Removal shall not include a termination of an Advisory Agreement under Section 9.5 of the Charter unless such termination is due to a failure of performance under Section 9.2 of the Charter. The replacement of Hines Global REIT II Advisors, LP (or any successor advisor Controlled by the Hines Family) as advisor by an advisor which is not Controlled by the Hines Family in connection with the renewal of an Advisory Agreement or at any

time other than pursuant to a Permitted Removal shall be an Event of Default under the Loan Documents unless Lender consents to such replacement advisor in its sole discretion, in which event Borrower shall pay to Lender an administrative fee in an amount equal to ten (10) basis points (0.10%) of the principal balance of the Loan outstanding as of the date of such replacement of the advisor. Borrower shall be responsible for any costs or fees incurred by Lender in connection with its review of the replacement advisor.

As used herein, the following terms shall have the following meanings:

"Advisory Agreement" means either (i) that certain Advisory Agreement dated August 15, 2014 among Hines Global REIT II Advisors, LP, Fund LP, and Main Fund, as amended by that certain Amendment to Advisory Agreement dated as of December 4, 2014, and that certain Amendment No. 2 to Advisory Agreement dated as of April 13, 2016 and as affected by those certain Acknowledgment of Renewal and Extension of Advisory Agreement dated as of December 16, 2015 and December 8, 2016, subject to further renewals and modifications that do not change the advisor Controlling the day-to-day business and affairs of the Main Fund or (ii) an advisory agreement among the Main Fund, Fund LP and an entity Controlled by the Hines Family, providing services substantially similar to those services provided by externally – advised non-listed public REITs at the time of any relevant transfer and which allows the advisor to control the day-to-day business and affairs of the Main Fund.

"Control" means the power to direct the management, policies and day to day operations of a person or entity, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract or otherwise.

"Main Fund" means Hines Global REIT II, Inc., a Maryland corporation.

"Fund LP" means Hines Global REIT II Properties, LP, a Delaware limited partnership.

"Hines" means Hines Global REIT II Investor LP, a Delaware limited partnership.

"Hines Family" means Jeffrey C. Hines, Gerald D. Hines, their spouses, children and grandchildren (including children and grandchildren by adoption), and/or entities Controlled, directly or indirectly, by any of them.

"Qualified Advisor" means a reputable third party advisor which satisfies the following conditions: (i) the proposed entity and/or entities Controlled by the proposed entity, just prior to the engagement, has real estate assets similar to the Property under management with a current market value of at least \$500,000,000.00; (ii) neither the proposed entity, nor any principal, partner, member, or other entity with more than a 20% beneficial ownership interest in the proposed entity, is involved in any litigation, investigations, indictments, or convictions of any civil or criminal activities, the result of which could have a material adverse effect, nor are there any outstanding criminal convictions or material monetary judgments which could have a material adverse effect; and (iii) no prior negative borrowing history with Lender."

6. Representations, Warranties and Covenants to Lender.

(a) Intentionally Omitted.

(b) Original Borrower hereby represents, warrants, certifies and covenants to Lender that as of the date hereof:

(i) Original Borrower has not made an assignment for the benefit of creditors;

(ii) No application or petition has been filed for the appointment of a custodian, trustee, receiver or agent to take possession of any property of Original Borrower;

(iii) Original Borrower is generally paying its debts as such debts become due;

(iv) Original Borrower is not "insolvent" as that term is defined in Section 101(31) of the "Bankruptcy Code" (Title 11 of the United States Code; 11 U.S.C. §§ 101, et seq.);

(v) Execution and delivery of this Agreement by Original Borrower and compliance by Original Borrower with the provisions of the Assumption Documents to which it is a party will not (A) violate or result in any breach of any of the terms, conditions or provisions of or constitute a default under any deed of trust, loan agreement, indenture or other contract or agreement to which Original Borrower is a party or by which Original Borrower or any of Original Borrower's or properties may be bound (nor would such execution and delivery constitute such a default with the passage of time or the giving of notice or both) and does not violate or contravene any law, order, decree, rule or regulation to which Original Borrower is subject, (B) result in the creation of any lien, charge or encumbrance on the property or assets of Original Borrower or (C) violate the terms of (1) Original Borrower's organizational documents or (2) any order of any court or administrative agency entered in any proceeding to which Original Borrower was or is a party or, to the knowledge of Original Borrower, to which Original Borrower may be subject or be bound;

(vi) The Note, Mortgage, the other Loan Documents and this Agreement constitute the legal, valid and binding obligations of Original Borrower enforceable, subject to bankruptcy, insolvency and other debtor relief laws, in accordance with their terms;

(vii) The execution and delivery of, and the performance of the obligations under this Agreement and under the Loan Documents are within Original Borrower's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite action;

(viii) There exists no uncured default under the Loan Documents and to the knowledge of Original Borrower, no event which with the passage of time or the giving of notice, or both, would constitute such a default under the Note, the Mortgage, the Assignment of Leases or any of the other Loan Documents;

(ix) Each person executing this Agreement as a representative of Original Borrower has been duly authorized and has full power to execute and deliver this Agreement for, on behalf of, and in the name of Original Borrower, and to bind Original Borrower to the terms and conditions hereof;

(x) Original Borrower has disclosed to Lender all material facts and has not failed to disclose any material facts that could cause any representation or warranty made herein to be materially misleading;

(xi) The proceeds of the Loans have been fully disbursed and there is no requirement for future advances under the Note or other Loan Documents; and

(xii) Original Borrower warrants, represents and covenants, as of the date hereof, that neither Original Borrower or any of its direct members, nor, to the knowledge of Original Borrower, any of its other affiliates is or will be an entity or person (i) that is listed in the Annex to, or is otherwise subject to the provisions of Executive Order 13224 issued on September 21, 2001 ("EO13224"), (ii) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("OFAC") most current list of "Specifically Designated Nationals and Blocked Persons" (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sbn.pdf>), (iii) who commits, threatens to commit or supports "terrorism", as that term is defined in EO13224, or (iv) who is otherwise affiliated with any entity or person listed in subparts (i) – (iii) above (any and all parties or persons described in subparts [i] – [iv] above are herein referred to as a "Prohibited Person").

(c) Borrower hereby represents, warrants, certifies and covenants to Lender that as of the date hereof:

(i) There is not pending against Borrower any petition in bankruptcy, whether voluntary or otherwise, or any other action brought under bankruptcy laws, and Borrower has not made an assignment for benefit of creditors;

(ii) No application or petition has been filed for the appointment of a custodian, trustee, receiver or agent to take possession of any property of Borrower;

(iii) Borrower is generally paying its debts as such debts become due;

(iv) Borrower is not "insolvent" as that term is defined in Section 101(31) of the "Bankruptcy Code" (Title 11 of the United States Code; 11 U.S.C. §§ 101, et seq.);

(v) Execution and delivery of this Agreement by Borrower and compliance by Borrower with the provisions of the Loan Documents and Assumption Documents will not (A) violate or result in any breach of any of the terms, conditions or provisions of or constitute a default under any deed of trust, loan agreement, indenture or other contract or agreement to which Borrower is a party or by which Borrower or any of Borrower's properties may be bound (nor would such execution and delivery constitute such a default with the passage of time or the giving of notice or both) and does not violate or contravene any law, order, decree, rule or regulation to which Borrower is subject, (B) result in the creation of any lien, charge or encumbrance on the property or assets of Borrower (other than the liens on the Property created by the Loan Documents) or (C) violate the terms of (1) Borrower's organizational documents or (2) any order of any court or administrative agency entered in any proceeding to which Borrower was or is a party or to which Borrower may be subject or be bound;

(vi) The Certificate of Formation of Borrower dated August 31, 2016, filed with the Delaware Secretary of State on August 31, 2016, and the Limited Liability Company

Agreement dated August 31, 2016, as amended by First Amendment to Limited Liability company Agreement dated as of the date hereof (the "Borrower Governing Documents") have not been amended or altered and are in full force and effect as of the date hereof. Notwithstanding the provisions of the Borrower Governing Documents regarding transfers of its respective shareholder's, partner's or member's interests in Borrower or the Property, Borrower acknowledges that the terms, conditions and restrictions regarding such transfers contained in the Mortgage shall govern and a violation thereof shall permit Lender to declare a default or otherwise exercise the remedies provided for in the Mortgage or the other Loan Documents or Assumption Documents;

(vii) The Articles of Amendment and Restatement of Hines Global REIT II, Inc., a Maryland corporation (the "GP"), dated August 15, 2014, filed with the Maryland Secretary of State on August 15, 2014, as supplemented by the Articles of Supplementary dated December 12, 2014, filed with the Maryland Secretary of State on December 12, 2014, as further supplemented by the Articles Supplementary dated August 6, 2015, filed with the Maryland Secretary of State on August 6, 2015, and the Amended and Restated Bylaws dated August 30, 2014, as amended by Amendment No. 1 to Amended and Restated Bylaws dated September 23, 2015 (the "GP Governing Documents") have not been amended or altered and are in full force and effect as of the date hereof. Notwithstanding the provisions of the GP Governing Documents regarding transfers of its respective shareholder's, partner's or member's interests in GP, Borrower or the Property, Borrower acknowledges that the terms, conditions and restrictions regarding such transfers contained in the Mortgage shall govern and a violation thereof shall permit Lender to declare a default or otherwise exercise the remedies provided for in the Mortgage or the other Loan Documents or Assumption Documents;

(viii) The Certificate of Limited Partnership of Hines Global REIT II Properties, LP, a Delaware limited partnership ("Member"), dated July 30, 2013, filed with the Delaware Secretary of State on July 31, 2013, and the Second Amended and Restated Limited Partnership Agreement dated August 12, 2015 (the "Member Governing Documents") have not been amended or altered and are in full force and effect as of the date hereof. Notwithstanding the provisions of the Member Governing Documents regarding transfers of its respective shareholder's, partner's or member's interests in Member, GP, Borrower or the Property, Borrower acknowledges that the terms, conditions and restrictions regarding such transfers contained in the Mortgage shall govern and a violation thereof shall permit Lender to declare a default or otherwise exercise the remedies provided for in the Mortgage or the other Loan Documents or Assumption Documents;

(ix) The Note, Mortgage, the other Loan Documents, and the Assumption Documents constitute the legal, valid and binding obligations of Borrower, enforceable, subject to bankruptcy, insolvency and other debtor relief laws, in accordance with their terms;

(x) The execution and delivery of, and the performance of the obligations under the Assumption Documents and Loan Documents, and the ownership of the Property are within Borrower's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite action;

(xi) Borrower understands and hereby acknowledges all of the terms and provisions of the Loan Documents and Assumption Documents and reaffirms to Lender each of the

covenants and agreements set forth in the Loan Documents for the time period from and after the date hereof with the same force and effect as if each were separately stated herein;

(xii) Borrower hereby remakes each and every warranty and representation of the "borrower" set forth in the Loan Documents (other than the Original Indemnity and that certain Borrower's Certificate dated April 1, 2015 executed by Original Borrower in favor of Lender) for the time period from and after the date hereof with the same force and effect as if each were separately stated herein, but subject to the limitations thereon as are set forth in all similar representations in that certain Borrower's Certificate dated of even date herewith delivered by Borrower to Lender;

(xiii) Each person executing this Agreement as a representative of Borrower has been duly authorized and has full power to execute and deliver this Agreement for, on behalf of, and in the name of Borrower, and to bind Borrower to the terms and conditions hereof;

(xiv) The financial condition of Borrower as of the date of this Agreement has not adversely changed from the financial condition as indicated by the financial statements furnished to Lender and said financial statements are substantially true and accurate as of the date of this Agreement;

(xv) Borrower has disclosed to Lender all material facts and have not failed to disclose any material facts that could cause any representation or warranty made herein to be materially misleading;

(xvi) Borrower understands and acknowledges that the proceeds of the Loan have been fully disbursed and there is no requirement for future advances under the Note or other Loan Documents;

(xvii) The assumption of the Loan by Borrower does not violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto. In addition, Borrower warrants, represents and covenants, as of the date hereof, that neither Borrower nor any of its respective affiliates is or will be a Prohibited Person. Borrower covenants and agrees that neither Borrower nor any of its affiliated entities will (i) conduct any business, nor engage in any transaction or dealing, with any Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (ii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO13224. Borrower further covenants and agrees to deliver to Lender any such certification or other evidence as may be requested by Lender in its sole discretion, confirming that (i) Borrower is not a Prohibited Person and (ii) Borrower has not engaged in any business, transaction or dealings with a Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person;

(xviii) Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, the Mortgage and the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Borrower shall deliver to Lender such

certifications or other evidence from time to time throughout the term of the Mortgage, as requested by Lender in its sole discretion, that (i) Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) one or more of the following circumstances is true:

(1) Equity interests in Borrower are publicly offered securities, within the meaning of 29 C.F.R. § 2510.3-101(b)(2);

(2) Less than twenty-five percent (25%) of each outstanding class of equity interests in Borrower are held by "benefit plan investors" within the meaning of 29 C.F.R. § 2510.3-101(f)(2); or

(3) Borrower qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. § 2510.3-101(c) or (e) or an investment company registered under The Investment Company Act of 1940; and

(xix) Borrower is a duly organized, validly existing limited liability company, in good standing under the laws of the State of Delaware, and is qualified to do business under the laws of the State of Ohio. Borrower is not in violation of any Federal or State laws relating to its structure, including, but not limited to, federal securities laws, blue sky laws, and other laws, or the rules or regulations of the Securities and Exchange Commission.

(d) The representations, warranties and certifications made by Original Borrower and Borrower set forth herein are given to induce Lender to grant the consent set forth in Paragraph 4 above, with the knowledge that Lender will rely upon the truth of the statements made herein.

7. Further Assurances. Original Borrower and Borrower, upon request from Lender, agree to execute such other and further documents as may be reasonably necessary or appropriate to consummate the transactions contemplated herein or to perfect the liens and security interests intended to secure the payment of the Loan evidenced by the Note; provided that no such other and/or further documents shall increase the obligations of Original Borrower and/or Borrower or decrease the rights of Original Borrower and/or Borrower. Borrower hereby authorizes Lender, at any time and from time to time, to file such financing statements and/or financing statement amendments on behalf of Borrower without Borrower's signature as Lender, in its sole discretion, deems necessary or desirable.

8. Remedies. Original Borrower and Borrower each agree to indemnify, defend and hold Lender harmless against any loss, claim, damage, liability or expense (including without limitation reasonable attorneys' fees) incurred as a result of any representation or warranty made by Original Borrower or Borrower (each as to itself only) herein proving to be untrue in any material respect. If Borrower shall fail to keep or perform any of the covenants or agreements contained herein or if any statement, representation or warranty by Borrower contained herein is false, misleading or erroneous in any material respect, Borrower shall be deemed to be in default under the Mortgage, and Lender shall be entitled at its option to exercise any and all of the rights and remedies granted pursuant to the Mortgage, the Assignment of Leases or any of the other Loan Documents or Assumption Documents or to which Lender may otherwise be entitled, whether at law or in equity.

9. Title Insurance. Contemporaneously with the execution and delivery hereof, Borrower shall, at its sole cost and expense, obtain and deliver to Lender a (i) Modification Endorsement and (ii) Date Down

Endorsement of Loan Policy of Title Insurance No. 102121 insuring the lien of the Mortgage and otherwise being in form and content acceptable to Lender.

10. Other Provisions Unchanged. Except as specifically provided herein, the terms and provisions of the Loan Documents shall remain unchanged and shall remain in full force and effect. Any modification herein of the Loan Documents shall in no way affect the security of the Mortgage, the Assignment of Leases and the other Loan Documents for the payment of the Note. The Loan Documents as modified and amended hereby are hereby ratified and confirmed in all respects. All liens, security interests, mortgages and assignments granted or created by or existing under the Mortgage, the Assignment of Leases and the other Loan Documents remain unchanged and continue, unabated, in full force and effect, to secure Borrower's obligation to repay the Note.

11. Lien Status. Original Borrower and Borrower each hereby acknowledge and agree that the security title, liens, security interests and assignments created and evidenced by the Mortgage and the assignment created by the Assignment of Leases are valid and subsisting and further acknowledge and agree that there are no offsets, claims or defenses to the Note, the Mortgage, the Assignment of Leases or any of the other Loan Documents. This Agreement and the Indemnity shall each be deemed to be a Loan Document.

12. Acknowledgement of Assignment of Leases. Original Borrower and Borrower each hereby acknowledge and agree that Lender may exercise its rights relating to the Rents (as defined in the Assignment of Leases), in Lender's sole discretion and without prejudice to any particular remedy, otherwise allowed by applicable law.

13. Merger. This Agreement supersedes and merges all prior and contemporaneous promises, representations and agreements with respect to the subject matter hereof. No modification of this Agreement, the Note, the Mortgage, the Assignment of Leases, the Indemnity or any of the other Loan Documents or Assumption Documents, or any waiver of rights under any of the foregoing, shall be effective unless made by supplemental agreement, in writing, executed by Lender and Borrower. Lender, Original Borrower and Borrower further agree that this Agreement may not in any way be explained or supplemented by a prior, existing or future course of dealings between the parties or by any prior, existing or future performance between the parties pursuant to this Agreement or otherwise.

14. Notices. All notices, reports, requests or other written instruments required or permitted hereunder shall be in writing, signed by the party giving or making the same, and shall be sent hand-delivered, effective upon receipt, sent by United States Express Mail or by a nationally recognized overnight courier, effective upon receipt, or sent by United States registered or certified mail, postage prepaid, with return receipt requested, deemed effective on the earlier of the day of actual delivery as shown by the addressee's return receipt or the expiration of three (3) business days after the date of mailing, addressed to the party intended to receive the same at the address set forth below or at such other address as shall be given in writing by any party to another:

To Lender:	Nationwide Life Insurance Company One Nationwide Plaza, Fifth Floor Columbus, Ohio 43215 Attention: Real Estate Investments, 1-05-701 Loan No. 00-1102347
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To Original Borrower:	CLP-SPF Rookwood Pavilion LLC
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c/o Casto
250 Civic Center Drive, Suite 500
Columbus, Ohio 43215
Attention: Lisa Boveine

With a courtesy
copy to:

ROOKWOOD ACQUISITION COMPANY LLC
c/o J.P. Morgan Investment Management Inc.
270 Park Avenue
New York, NY 10017
Attention: Jeff Pisano

With a courtesy
copy to:

STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, NY 10038
Attention: Brian Diamond, Esq.

To Borrower:

HGREIT II Madison Road LLC
2800 Post Oak Boulevard
Suite 4800
Houston, Texas 77056-618
Attention: Kevin L. McMeans
Fax No: (713) 966-2075

With a courtesy
copy to:

HGREIT II Madison Road LLC
c/o Hines Advisors Limited Partnership
2800 Post Oak Boulevard
Suite 4800
Houston, Texas 77056-618
Attention: Jason P. Maxwell, Esq.
Fax No: (713) 966-2075

With a courtesy
copy to:

Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002
Attention: Connie Simmons Taylor, Esq.
Fax No: (713) 229-7850

15. Expenses of Lender. Contemporaneously with the execution and delivery hereof, Borrower or Original Borrower shall pay, or cause to be paid (in each case, to the extent not previously deposited with Lender), all reasonable out-of-pocket costs and expenses of Lender incident to the preparation hereof and the consummation of the transactions specified herein, without duplication, including without limitation title insurance policy premiums or endorsement charges, fees and expenses of legal counsel to Lender and recording fees.

16. Release. Original Borrower and Borrower hereby release, remise, acquit and forever discharge Lender, together with its employees, agents, representatives, consultants, attorneys, fiduciaries, trustees, substitute trustees, servants, officers, directors, partners, predecessors, successors and assigns, subsidiary corporations, parent corporations, and related corporate divisions (all of the foregoing are hereinafter referred

to as the "Released Parties"), from any and all actions and causes of action, judgments, executions, suits, debts, claims, demands, liabilities, obligations, damages and expenses of any and every character, known or unknown, direct and/or indirect, at law or in equity, of whatsoever kind or nature, whether heretofore or hereafter accruing, but only for or because of any matter or things done, omitted or suffered to be done by any of the Released Parties prior to and including the date hereof, and in any way directly or indirectly arising out of or in any way connected to this Agreement, the Note, the Mortgage, the Assignment of Leases or any of the other Loan Documents or Assumption Documents, or any of the transactions associated therewith, or the Property, including specifically but not limited to claims of usury, **which in whole or part is caused by or arises out of the NEGLIGENCE of Lender. However, the foregoing release shall not apply to the extent that a matter covered thereby is caused by or arises out of the gross negligence or willful misconduct of any of the Released Parties.** Original Borrower and Borrower hereby agree that Lender has no fiduciary or similar obligations to Original Borrower or Borrower and that their relationship is strictly that of creditor and debtor. This release is accepted by Lender pursuant to this Agreement and shall not be construed as an admission of liability on the part of Lender.

17. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

18. Severability of Provisions. If any covenant, condition or provision herein contained is held to be invalid by final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall not in any way affect any other covenant, condition or provision herein contained.

19. Time of the Essence. It is expressly agreed by the parties hereto that time is of the essence with respect to this Agreement.

20. Representation by Counsel. The parties acknowledge and confirm that each of their respective attorneys has participated jointly in the review and revision of this Agreement and that it has not been written solely by counsel for one party. The parties hereto therefore stipulate and agree that the rule of construction to the effect that any ambiguities are to or may be resolved against the drafting party shall not be employed in the interpretation of this Agreement to favor either party against the other.

21. Governing Law. The Note, Mortgage, this Agreement, the Indemnity and the other Loan Documents and Assumption Documents and the rights and duties of the parties thereunder and hereunder shall be governed for all purposes by the law of the State of Ohio and the law of the United States applicable to transactions within said State.

22. Successors and Assigns. The terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto, their representatives, successors and assigns.

23. Paragraph Headings. The paragraph headings set forth in this Agreement are for the convenience of the parties only, and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs in this Agreement.

24. Final Agreement. Original Borrower and Borrower and Lender hereby take notice of and agree to the following:

(a) THE NOTE, THE MORTGAGE, THE ASSIGNMENT OF LEASES, THE INDEMNITY, THE OTHER LOAN DOCUMENTS AND THIS AGREEMENT REPRESENT THE FINAL

AGREEMENT BETWEEN THE PARTIES THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES THERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[SIGNATURE PAGE TO FOLLOW]

*SIGNATURE PAGE OF LENDER TO
ASSUMPTION AND MODIFICATION AGREEMENT*

IN WITNESS WHEREOF, this Agreement is executed under seal as of the date first above written.

**NATIONWIDE LIFE INSURANCE
COMPANY**, an Ohio corporation

By: /s/ Peter A. Lynch
Name: Peter A. Lynch
Title: Senior Investment Professional

STATE OF OHIO §
 § ss:
COUNTY OF FRANKLIN §

This instrument was acknowledged before me on January __, 2017, by _____, _____ of
Nationwide Life Insurance Company, an Ohio corporation, on behalf of said corporation.

Notary Public

My Commission Expires:

Printed/Typed Name of Notary

IN WITNESS WHEREOF, this Agreement is executed under seal as of the date first above written.

Notary Public

*SIGNATURE PAGE OF BORROWER TO
ASSUMPTION AND MODIFICATION AGREEMENT*

IN WITNESS WHEREOF, this Agreement is executed under seal as of the date first above written.

HGREIT II MADISON ROAD LLC,
a Delaware limited liability company

By: /s/ Janice Walker
Name: Janice Walker
Title: Authorized Agent

STATE OF _____ §
COUNTY OF _____ § SS:

Sworn to and acknowledged before me, a Notary Public in and for said state, by _____, the _____ of HGREIT II MADISON ROAD LLC, a Delaware limited liability company, for and on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunder subscribed my name and affixed my notarial seal on this _____ day of _____, 2016.

Notary Public

Prepared by and
upon recordation return to:

Maxwell W. Gerwin, Esq.
Dinsmore & Shohl
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

EXHIBIT A

Legal Description

Cross-Reference:

Official Record Book 12865, Page 1464 (Mortgage)
Official Record Book 12865, Page 1511 (ALR)
Hamilton County, Ohio records.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

ASSUMPTION AND MODIFICATION AGREEMENT

This ASSUMPTION AND MODIFICATION AGREEMENT (this "Agreement") dated this 6th day of January, 2017 by and among **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation ("Lender"), **CLP-SPF ROOKWOOD COMMONS LLC**, a Delaware limited liability company ("Original Borrower"), and **HGREIT II EDMONDSON ROAD LLC**, a Delaware limited liability company ("Borrower").

W I T N E S S E T H:

WHEREAS, Lender made a loan (the "Loan") to Original Borrower in the original principal amount of \$67,000,000.00, and in connection with the Loan, Original Borrower executed and delivered to Lender (a) one certain Promissory Note, dated April 1, 2015, payable to the order of Lender, in the original principal sum of \$67,000,000.00, with interest and principal payable as therein provided ("Note"), the payment of which Note is secured by, *inter alia*, an Open-End Mortgage and Security Agreement, dated April 1, 2015, recorded as Document No. 15-0035175, Official Record Book 12865, Page 1464 in the Real Property Records of Hamilton County, Ohio, encumbering certain real and personal property described therein (all real and personal property rights so encumbered collectively being the "Property") including, without limitation, the land described in Exhibit A attached hereto and made a part hereof (the "Original Mortgage"), as affected by that certain Letter Agreement dated April 1, 2015 executed and delivered by Lender and acknowledged by Original Borrower (the "Side Letter" and the Original Mortgage, as modified by the Side Letter, the "Mortgage"), reference being here made to the Mortgage and the record thereof for all purposes;

WHEREAS, Original Borrower also executed (i) an Assignment of Leases, Rents and Profits, dated April 1, 2015, recorded as Document No. 15-0035176, Official Record Book 12865, Page 1511 in the Real Property Records of Hamilton County, Ohio (the "Assignment of Leases"), reference being here made to the

Assignment of Leases and the record thereof for all purposes, and (ii) an Indemnity Agreement, dated April 1, 2015, (the "Original Indemnity");

WHEREAS, in connection herewith, Borrower has executed and delivered to Lender that certain Indemnity Agreement of even date herewith in form and substance satisfactory to Lender (the "Indemnity");

WHEREAS, the Note, the Mortgage, the Assignment of Leases, the Original Indemnity and all other documents executed by Original Borrower in connection with or securing or evidencing the Loan are collectively referred to as the "Loan Documents";

WHEREAS, this Agreement, the Indemnity and all other documents executed and delivered in connection with Borrower's assumption of the Loan are collectively referred to as the "Assumption Documents";

WHEREAS, the Mortgage provides that the indebtedness secured by the Mortgage may, at the option of the holder of the same, be accelerated if Original Borrower or any assignee of Original Borrower sells or conveys any or all of the Property without the consent of Lender;

WHEREAS, Lender has been requested to consent to the transfer and conveyance of the Property from Original Borrower to Borrower and to the assumption of Original Borrower's obligations under the Loan Documents by Borrower and Lender is willing to so consent upon compliance with the terms and provisions of this Agreement; and

WHEREAS, Lender is the owner and holder of the Note, and Original Borrower is the owner of the legal and equitable title to the Property;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Conveyance of Property. Original Borrower is concurrently herewith conveying the Property to Borrower. For purposes of this Agreement, the transfer and conveyance of the Property shall be deemed to have occurred simultaneously with the recordation in the appropriate real property records of Hamilton County, Ohio, of the deed or deeds by which title to the Property is conveyed by Original Borrower to Borrower. Borrower hereby acknowledges and agrees that title to the Property and Borrower's interest therein, is encumbered by and subject to the liens, security interests, assignments and other terms, covenants, restrictions and provisions of the Loan Documents.

2. Assumption by Borrower. Borrower hereby acknowledges and agrees that it hereby (i) assumes and promises to keep and perform all covenants and obligations on Original Borrower's part to be performed under all of the Loan Documents to the same extent as if Borrower were the original signatory thereto, and (ii) assumes and promises to pay the outstanding principal balance of the Note, with interest thereon, and all other sums required to be paid to Lender in accordance with the provisions of the Note and other Loan Documents, and to perform, comply with and abide by each and every one of the covenants, agreements and conditions contained and set forth in the Loan Documents.

3. Conditions Precedent to Lender's Consent to Assumption by Borrower. Lender's consent and approval as set forth in Paragraph 4 below is conditioned upon the satisfaction of the following conditions precedent and, by execution and delivery of this Agreement, Lender hereby acknowledges and agrees that, subject to Section 7 hereof, such conditions precedent have been satisfied:

- (a) Original Borrower and Borrower shall have executed and delivered this Agreement to Lender.
- (b) Borrower shall have executed and delivered the Indemnity to Lender.
- (c) Original Borrower or Borrower shall have paid a total transfer fee for the transfer contemplated by this Agreement equal to one-half percent (0.5%) of the outstanding principal balance of the Note at the time of such transfer to Lender in connection with the transfer of the Property and the assumption of the Loan by Borrower less the \$3,000 processing fee and shall have reimbursed Lender for any and all reasonable out-of-pocket costs and expenses and third-party costs incurred by Lender for the processing of said transfer, including, without limitation, counsel fees, recording and transfer fees, and title insurance costs and premiums. Original Borrower, Borrower and Lender agree that should the Loan Documents contain any provision defining or limiting a transfer fee or assumption fee, this Paragraph 3(c) shall control and supersede such provision.
- (d) Borrower shall have established an escrow with Lender for real estate taxes, assessments and insurance premiums in amounts determined by Lender to be held by Lender pursuant to Section 17 of the Mortgage.
- (e) Lender shall have received and approved such ownership documents and organizational documents as are requested by Lender.
- (f) Borrower shall have, at its sole cost and expense, obtained and delivered to Lender endorsements to Lender's title policy in accordance with Paragraph 9 below.
- (g) Borrower shall have executed and delivered to Lender a Certification of Non-Foreign Status in a form acceptable to Lender.
- (h) Borrower shall have delivered to Lender financing statements and/or financing statement amendments in form and substance reasonably satisfactory to Lender in all places necessary in connection with the perfection of Lender's security interest in the fixtures and other property described in the Mortgage.
- (i) Original Borrower shall have executed and contemporaneously filed of record, in the appropriate real property records of Hamilton County, Ohio, a deed or deeds in the form approved by Lender, pursuant to which title to the Property shall be conveyed to Borrower.
- (j) There shall be no secondary or subordinate financing of the Property in connection with the conveyance and transfer of the Property by Original Borrower to Borrower and no other changes to the status of title to the Property not approved by Lender.
- (k) Borrower shall deliver to Lender in form and substance satisfactory to Lender, an opinion of counsel to Borrower, stating, *inter alia*, that (i) Borrower is duly formed, legally existing and in good standing under the laws of the State of Delaware and is duly authorized to transact business in the State of Ohio; (ii) the execution of this Agreement and the other documents in connection with the assumption and modification of the Loan have been duly authorized by Borrower; (iii) Borrower has all requisite authority to own, lease and operate the Property; (iv) Borrower has all requisite authority to assume the obligations of Original Borrower pursuant to this Agreement; and (v) this Agreement and the other documents executed by Borrower in connection with the assumption and modification of the Loan have been duly executed and delivered by Borrower and that the Loan

Documents, as modified by this Agreement, are the legal, valid and binding obligations of Borrower enforceable against Borrower in accordance with their terms.

(l) Hines Interests Limited Partnership, a Delaware limited partnership ("HILP") shall manage the Property pursuant to that certain Property Management and Leasing Agreement dated as of January 6, 2017 between Borrower and HILP in form approved by Lender, and shall deliver an Acknowledgment of Property Manager in form and substance satisfactory to Lender.

(m) Borrower shall have delivered to Lender evidence of insurance coverage for the Property in form and substance satisfactory to Lender.

4. Consent to Assumption of Loan by Borrower. Subject to the conditions set forth in Paragraph 3 above and pursuant to Section 32 of the Mortgage:

(a) Lender hereby consents to Borrower's purchase of the Property from Original Borrower, the conveyance of the Property to Borrower, and the assumption by Borrower of Original Borrower's covenants and obligations under the Loan Documents. Lender's consent to the transfer of the Property to Borrower is not intended to be and shall not be construed as consent to any subsequent transfer which requires Lender's consent pursuant to the terms of the Loan Documents.

(b) From and after the date hereof, Lender hereby releases, remises, acquits and forever discharges Original Borrower, together with its employees, agents, representatives, consultants, attorneys, fiduciaries, servants, officers, directors, partners, predecessors, successors and assigns, subsidiary corporations, parent corporations, and related corporate divisions (all of the foregoing hereinafter called the "Original Borrower's Released Parties"), from any and all actions and causes of action, judgments, executions, suits, debts, claims, demands, liabilities, obligations, damages and expenses of any and every character, known or unknown, direct and/or indirect, at law or in equity, of whatsoever kind or nature, accruing under the Loan Documents, and/or for or because of any matter or things done, omitted or suffered to be done by any of the Original Borrower's Released Parties, and in any way directly or indirectly arising out of or in any way connected to the Note, the Mortgage, the Assignment of Leases, the Original Indemnity or any other Loan Document, or any of the transactions associated therewith, or the Property, provided, however, that the foregoing release shall not cover any obligation or liability of Original Borrower under the Loan Documents arising prior to the date hereof (other than the obligations to pay principal and interest due under the Note) or any of the representations, covenants and obligations of Original Borrower contained in Paragraph 6 of this Agreement. The burden of proof under this subsection with regard to establishing the date upon which such obligations for payment, performance or indemnification arose shall be upon Original Borrower.

(c) Lender, Original Borrower and Borrower each hereby acknowledge and agree that the sale and transfer of the Property by Original Borrower to Borrower, and Lender's consent thereto pursuant to this Agreement, constitutes a transfer of the Property without a change in the terms of the Loan permitted by Section 32 of the Mortgage, and therefore, all permitted transfer rights thereunder have been extinguished.

(d) Lender shall amend its records to indicate that Borrower is the owner of the Property.

5. Modification of the Loan Documents.

(a) All references in the Loan Documents to the "Indemnity" shall mean the Original Indemnity executed and delivered by Original Borrower and the Indemnity executed and delivered by Borrower, as the context may require.

(b) Sections 2 and 3 of the Side Letter are hereby deleted in their entirety and of no further force or effect.

(c) Section 9(b) of the Note is hereby deleted in its entirety and replaced with the following:

"(b) failure to pay any taxes which accrue prior to Lender taking control of the Property or to pay assessments, charges for labor or materials or any other charges that could result in liens on all or any portion of the Property; notwithstanding the foregoing, any such failure shall only trigger recourse liability if (A) at the time of such failure, Borrower had sufficient cash flow from the Property to pay such amounts but failed to do so; (B) Borrower had insufficient cash flow from the Property to pay any amounts owed prior to delinquency and failed to give Lender Written Notice thereof; or (C) Borrower escrows such amounts with Lender and Borrower has not made all required escrow deposits;"

(d) Section 32 of the Mortgage is hereby amended to include the following subparagraph (f):

"(f) Lender shall permit (i) the transfer, conveyance or pledge of direct or indirect limited partnership interests in the Fund LP, or (ii) the transfer, conveyance, or pledge of no more than forty-nine percent (49%) of the membership interests in Borrower, in the aggregate; provided, however, that for each such action all of the following conditions are satisfied:

a. After giving effect to each and every such action, the following conditions shall be satisfied:

1. the Main Fund and Fund LP continue to own, directly or indirectly, at least fifty-one percent (51%) of the beneficial ownership interests of Borrower;
2. the Main Fund and Fund LP shall continue to directly or indirectly Control Borrower; and
3. the Main Fund and Fund LP shall continue to be advised, directly or indirectly, by Hines Family in accordance with an Advisory Agreement;

b. Hines and/or its affiliates shall continue to hold a \$2,200,000 investment in the Main Fund (subject to devaluation due to declines in market values);

c. Each transferee of a direct interest in Borrower or a direct interest in Fund LP complies with Lender's Patriot Act and OFAC requirements;

d. Each transferee of an interest in the Main Fund (i) has been subject to commercially reasonable efforts taken by the Main

Fund's transfer agent and independent sales network to comply with Patriot Act and OFAC requirements; and (ii) with respect to a transferee of a five percent (5%) or greater ownership interest, complies with Lender's Patriot Act and OFAC requirements;

- e. No Event of Default has occurred under the Loan Documents;
- f. Borrower continues to hold title to the Property, and continues to be a single purpose entity after such transfer; and
- g. Borrower shall provide prompt written notice within thirty (30) days following (i) any transfer of five percent (5%) or more of any direct or indirect interest in the Main Fund or Fund LP to a single transferee and (ii) any transfer or pledge of five percent (5%) or more of the membership interests in Borrower.

The conditions to transfer described above shall not apply to the transfer, assignment, pledge, redemption or issuance of the publicly offered ownership interests in the Main Fund (collectively, the "Permitted Main Fund Transfers"), all of which shall be freely permitted without Lender's consent, provided that, after giving effect to each such action, an Advisory Agreement remains in full force and effect. Notwithstanding the foregoing, in the event that the independent directors of the Board of Directors of the Main Fund remove Hines Global REIT II Advisors, LP (or a successor advisor Controlled by the Hines Family) for a failure to perform under an Advisory Agreement in fulfillment of the independent directors' obligations under Section 9.2 of the Articles of Amendment and Restatement of the Main Fund (the "Charter") to, among other things, annually review the performance of the Advisor (a "Permitted Removal"), then the Permitted Main Fund Transfers shall be freely permitted without Lender's consent so long as (A) a replacement advisory agreement has been entered into with a Qualified Advisor, (B) within ten (10) days of such replacement Lender has been provided written notice of such replacement Qualified Advisor together with a copy of the replacement advisory agreement and a copy of the minutes from the meeting of the Board of Directors of the Main Fund during which the Permitted Removal was approved (which minutes Lender agrees to keep confidential unless required to be disclosed by any governmental agency or applicable law), and (C) within fifteen (15) days of such replacement, the Qualified Advisor has complied with Lender's Patriot Act and OFAC requirements. A Permitted Removal shall not include a termination of an Advisory Agreement under Section 9.5 of the Charter unless such termination is due to a failure of performance under Section 9.2 of the Charter. The replacement of Hines Global REIT II Advisors, LP (or any successor advisor Controlled by the Hines Family) as advisor by an advisor which is not Controlled by the Hines Family in connection with the renewal of an Advisory Agreement or at any

time other than pursuant to a Permitted Removal shall be an Event of Default under the Loan Documents unless Lender consents to such replacement advisor in its sole discretion, in which event Borrower shall pay to Lender an administrative fee in an amount equal to ten (10) basis points (0.10%) of the principal balance of the Loan outstanding as of the date of such replacement of the advisor. Borrower shall be responsible for any costs or fees incurred by Lender in connection with its review of the replacement advisor.

As used herein, the following terms shall have the following meanings:

"Advisory Agreement" means either (i) that certain Advisory Agreement dated August 15, 2014 among Hines Global REIT II Advisors, LP, Fund LP, and Main Fund, as amended by that certain Amendment to Advisory Agreement dated as of December 4, 2014, and that certain Amendment No. 2 to Advisory Agreement dated as of April 13, 2016 and as affected by those certain Acknowledgment of Renewal and Extension of Advisory Agreement dated as of December 16, 2015 and December 8, 2016, subject to further renewals and modifications that do not change the advisor Controlling the day-to-day business and affairs of the Main Fund or (ii) an advisory agreement among the Main Fund, Fund LP and an entity Controlled by the Hines Family, providing services substantially similar to those services provided by externally – advised non-listed public REITs at the time of any relevant transfer and which allows the advisor to control the day-to-day business and affairs of the Main Fund.

"Control" means the power to direct the management, policies and day to day operations of a person or entity, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract or otherwise.

"Main Fund" means Hines Global REIT II, Inc., a Maryland corporation.

"Fund LP" means Hines Global REIT II Properties, LP, a Delaware limited partnership.

"Hines" means Hines Global REIT II Investor LP, a Delaware limited partnership.

"Hines Family" means Jeffrey C. Hines, Gerald D. Hines, their spouses, children and grandchildren (including children and grandchildren by adoption), and/or entities Controlled, directly or indirectly, by any of them.

"Qualified Advisor" means a reputable third party advisor which satisfies the following conditions: (i) the proposed entity and/or entities Controlled by the proposed entity, just prior to the engagement, has real estate assets similar to the Property under management with a current market value of at least \$500,000,000.00; (ii) neither the proposed entity, nor any principal, partner, member, or other entity with more than a 20% beneficial ownership interest in the proposed entity, is involved in any litigation, investigations, indictments, or convictions of any civil or criminal activities, the result of which could have a material adverse effect, nor are there any outstanding criminal convictions or material monetary judgments which could have a material adverse effect; and (iii) no prior negative borrowing history with Lender.

6. Representations, Warranties and Covenants to Lender.

(a) Intentionally Omitted.

(b) Original Borrower hereby represents, warrants, certifies and covenants to Lender that as of the date hereof:

(i) Original Borrower has not made an assignment for the benefit of creditors;

(ii) No application or petition has been filed for the appointment of a custodian, trustee, receiver or agent to take possession of any property of Original Borrower;

(iii) Original Borrower is generally paying its debts as such debts become due;

(iv) Original Borrower is not "insolvent" as that term is defined in Section 101(31) of the "Bankruptcy Code" (Title 11 of the United States Code; 11 U.S.C. §§ 101, et seq.);

(v) Execution and delivery of this Agreement by Original Borrower and compliance by Original Borrower with the provisions of the Assumption Documents to which it is a party will not (A) violate or result in any breach of any of the terms, conditions or provisions of or constitute a default under any deed of trust, loan agreement, indenture or other contract or agreement to which Original Borrower is a party or by which Original Borrower or any of Original Borrower's or properties may be bound (nor would such execution and delivery constitute such a default with the passage of time or the giving of notice or both) and does not violate or contravene any law, order, decree, rule or regulation to which Original Borrower is subject, (B) result in the creation of any lien, charge or encumbrance on the property or assets of Original Borrower or (C) violate the terms of (1) Original Borrower's organizational documents or (2) any order of any court or administrative agency entered in any proceeding to which Original Borrower was or is a party or, to the knowledge of Original Borrower, to which Original Borrower may be subject or be bound;

(vi) The Note, Mortgage, the other Loan Documents and this Agreement constitute the legal, valid and binding obligations of Original Borrower enforceable, subject to bankruptcy, insolvency and other debtor relief laws, in accordance with their terms;

(vii) The execution and delivery of, and the performance of the obligations under this Agreement and under the Loan Documents are within Original Borrower's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite action;

(viii) There exists no uncured default under the Loan Documents and to the knowledge of Original Borrower, no event which with the passage of time or the giving of notice, or both, would constitute such a default under the Note, the Mortgage, the Assignment of Leases or any of the other Loan Documents;

(ix) Each person executing this Agreement as a representative of Original Borrower has been duly authorized and has full power to execute and deliver this Agreement for, on behalf of, and in the name of Original Borrower, and to bind Original Borrower to the terms and conditions hereof;

(x) Original Borrower has disclosed to Lender all material facts and has not failed to disclose any material facts that could cause any representation or warranty made herein to be materially misleading;

(xi) The proceeds of the Loans have been fully disbursed and there is no requirement for future advances under the Note or other Loan Documents; and

(xii) Original Borrower warrants, represents and covenants, as of the date hereof, that neither Original Borrower or any of its direct members, nor, to the knowledge of Original Borrower, any of its other affiliates is or will be an entity or person (i) that is listed in the Annex to, or is otherwise subject to the provisions of Executive Order 13224 issued on September 21, 2001 ("EO13224"), (ii) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("OFAC") most current list of "Specifically Designated Nationals and Blocked Persons" (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sbn.pdf>), (iii) who commits, threatens to commit or supports "terrorism", as that term is defined in EO13224, or (iv) who is otherwise affiliated with any entity or person listed in subparts (i) – (iii) above (any and all parties or persons described in subparts [i] – [iv] above are herein referred to as a "Prohibited Person").

(c) Borrower hereby represents, warrants, certifies and covenants to Lender that as of the date hereof:

(i) There is not pending against Borrower any petition in bankruptcy, whether voluntary or otherwise, or any other action brought under bankruptcy laws, and Borrower has not made an assignment for benefit of creditors;

(ii) No application or petition has been filed for the appointment of a custodian, trustee, receiver or agent to take possession of any property of Borrower;

(iii) Borrower is generally paying its debts as such debts become due;

(iv) Borrower is not "insolvent" as that term is defined in Section 101(31) of the "Bankruptcy Code" (Title 11 of the United States Code; 11 U.S.C. §§ 101, et seq.);

(v) Execution and delivery of this Agreement by Borrower and compliance by Borrower with the provisions of the Loan Documents and Assumption Documents will not (A) violate or result in any breach of any of the terms, conditions or provisions of or constitute a default under any deed of trust, loan agreement, indenture or other contract or agreement to which Borrower is a party or by which Borrower or any of Borrower's properties may be bound (nor would such execution and delivery constitute such a default with the passage of time or the giving of notice or both) and does not violate or contravene any law, order, decree, rule or regulation to which Borrower is subject, (B) result in the creation of any lien, charge or encumbrance on the property or assets of Borrower (other than the liens on the Property created by the Loan Documents) or (C) violate the terms of (1) Borrower's organizational documents or (2) any order of any court or administrative agency entered in any proceeding to which Borrower was or is a party or to which Borrower may be subject or be bound;

(vi) The Certificate of Formation of Borrower dated August 31, 2016, filed with the Delaware Secretary of State on August 31, 2016, and the Limited Liability Company

Agreement dated August 31, 2016, as amended by First Amendment to Limited Liability company Agreement dated as of the date hereof (the "Borrower Governing Documents") have not been amended or altered and are in full force and effect as of the date hereof. Notwithstanding the provisions of the Borrower Governing Documents regarding transfers of its respective shareholder's, partner's or member's interests in Borrower or the Property, Borrower acknowledges that the terms, conditions and restrictions regarding such transfers contained in the Mortgage shall govern and a violation thereof shall permit Lender to declare a default or otherwise exercise the remedies provided for in the Mortgage or the other Loan Documents or Assumption Documents;

(vii) The Articles of Amendment and Restatement of Hines Global REIT II, Inc., a Maryland corporation (the "GP"), dated August 15, 2014, filed with the Maryland Secretary of State on August 15, 2014, as supplemented by the Articles of Supplementary dated December 12, 2014, filed with the Maryland Secretary of State on December 12, 2014, as further supplemented by the Articles Supplementary dated August 6, 2015, filed with the Maryland Secretary of State on August 6, 2015, and the Amended and Restated Bylaws dated August 30, 2014, as amended by Amendment No. 1 to Amended and Restated Bylaws dated September 23, 2015 (the "GP Governing Documents") have not been amended or altered and are in full force and effect as of the date hereof. Notwithstanding the provisions of the GP Governing Documents regarding transfers of its respective shareholder's, partner's or member's interests in GP, Borrower or the Property, Borrower acknowledges that the terms, conditions and restrictions regarding such transfers contained in the Mortgage shall govern and a violation thereof shall permit Lender to declare a default or otherwise exercise the remedies provided for in the Mortgage or the other Loan Documents or Assumption Documents;

(viii) The Certificate of Limited Partnership of Hines Global REIT II Properties, LP, a Delaware limited partnership ("Member"), dated July 30, 2013, filed with the Delaware Secretary of State on July 31, 2013, and the Second Amended and Restated Limited Partnership Agreement dated August 12, 2015 (the "Member Governing Documents") have not been amended or altered and are in full force and effect as of the date hereof. Notwithstanding the provisions of the Member Governing Documents regarding transfers of its respective shareholder's, partner's or member's interests in Member, GP, Borrower or the Property, Borrower acknowledges that the terms, conditions and restrictions regarding such transfers contained in the Mortgage shall govern and a violation thereof shall permit Lender to declare a default or otherwise exercise the remedies provided for in the Mortgage or the other Loan Documents or Assumption Documents;

(ix) The Note, Mortgage, the other Loan Documents, and the Assumption Documents constitute the legal, valid and binding obligations of Borrower, enforceable, subject to bankruptcy, insolvency and other debtor relief laws, in accordance with their terms;

(x) The execution and delivery of, and the performance of the obligations under the Assumption Documents and Loan Documents, and the ownership of the Property are within Borrower's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite action;

(xi) Borrower understands and hereby acknowledges all of the terms and provisions of the Loan Documents and Assumption Documents and reaffirms to Lender each of the

covenants and agreements set forth in the Loan Documents for the time period from and after the date hereof with the same force and effect as if each were separately stated herein;

(xii) Borrower hereby remakes each and every warranty and representation of the "borrower" set forth in the Loan Documents (other than the Original Indemnity and that certain Borrower's Certificate dated April 1, 2015 executed by Original Borrower in favor of Lender) for the time period from and after the date hereof with the same force and effect as if each were separately stated herein, but subject to the limitations thereon as are set forth in all similar representations in that certain Borrower's Certificate dated of even date herewith delivered by Borrower to Lender;

(xiii) Each person executing this Agreement as a representative of Borrower has been duly authorized and has full power to execute and deliver this Agreement for, on behalf of, and in the name of Borrower, and to bind Borrower to the terms and conditions hereof;

(xiv) The financial condition of Borrower as of the date of this Agreement has not adversely changed from the financial condition as indicated by the financial statements furnished to Lender and said financial statements are substantially true and accurate as of the date of this Agreement;

(xv) Borrower has disclosed to Lender all material facts and have not failed to disclose any material facts that could cause any representation or warranty made herein to be materially misleading;

(xvi) Borrower understands and acknowledges that the proceeds of the Loan have been fully disbursed and there is no requirement for future advances under the Note or other Loan Documents;

(xvii) The assumption of the Loan by Borrower does not violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto. In addition, Borrower warrants, represents and covenants, as of the date hereof, that neither Borrower nor any of its respective affiliates is or will be a Prohibited Person. Borrower covenants and agrees that neither Borrower nor any of its affiliated entities will (i) conduct any business, nor engage in any transaction or dealing, with any Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (ii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO13224. Borrower further covenants and agrees to deliver to Lender any such certification or other evidence as may be requested by Lender in its sole discretion, confirming that (i) Borrower is not a Prohibited Person and (ii) Borrower has not engaged in any business, transaction or dealings with a Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person;

(xviii) Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, the Mortgage and the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Borrower shall deliver to Lender such

certifications or other evidence from time to time throughout the term of the Mortgage, as requested by Lender in its sole discretion, that (i) Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) one or more of the following circumstances is true:

(1) Equity interests in Borrower are publicly offered securities, within the meaning of 29 C.F.R. § 2510.3-101(b)(2);

(2) Less than twenty-five percent (25%) of each outstanding class of equity interests in Borrower are held by "benefit plan investors" within the meaning of 29 C.F.R. § 2510.3-101(f)(2); or

(3) Borrower qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. § 2510.3-101(c) or (e) or an investment company registered under The Investment Company Act of 1940; and

(xix) Borrower is a duly organized, validly existing limited liability company, in good standing under the laws of the State of Delaware, and is qualified to do business under the laws of the State of Ohio. Borrower is not in violation of any Federal or State laws relating to its structure, including, but not limited to, federal securities laws, blue sky laws, and other laws, or the rules or regulations of the Securities and Exchange Commission.

(d) The representations, warranties and certifications made by Original Borrower and Borrower set forth herein are given to induce Lender to grant the consent set forth in Paragraph 4 above, with the knowledge that Lender will rely upon the truth of the statements made herein.

7. Further Assurances. Original Borrower and Borrower, upon request from Lender, agree to execute such other and further documents as may be reasonably necessary or appropriate to consummate the transactions contemplated herein or to perfect the liens and security interests intended to secure the payment of the Loan evidenced by the Note; provided that no such other and/or further documents shall increase the obligations of Original Borrower and/or Borrower or decrease the rights of Original Borrower and/or Borrower. Borrower hereby authorizes Lender, at any time and from time to time, to file such financing statements and/or financing statement amendments on behalf of Borrower without Borrower's signature as Lender, in its sole discretion, deems necessary or desirable.

8. Remedies. Original Borrower and Borrower each agree to indemnify, defend and hold Lender harmless against any loss, claim, damage, liability or expense (including without limitation reasonable attorneys' fees) incurred as a result of any representation or warranty made by Original Borrower or Borrower (each as to itself only) herein proving to be untrue in any material respect. If Borrower shall fail to keep or perform any of the covenants or agreements contained herein or if any statement, representation or warranty by Borrower contained herein is false, misleading or erroneous in any material respect, Borrower shall be deemed to be in default under the Mortgage, and Lender shall be entitled at its option to exercise any and all of the rights and remedies granted pursuant to the Mortgage, the Assignment of Leases or any of the other Loan Documents or Assumption Documents or to which Lender may otherwise be entitled, whether at law or in equity.

9. Title Insurance. Contemporaneously with the execution and delivery hereof, Borrower shall, at its sole cost and expense, obtain and deliver to Lender a (i) Modification Endorsement and (ii) Date Down

Endorsement of Loan Policy of Title Insurance No. 102121 insuring the lien of the Mortgage and otherwise being in form and content acceptable to Lender.

10. Other Provisions Unchanged. Except as specifically provided herein, the terms and provisions of the Loan Documents shall remain unchanged and shall remain in full force and effect. Any modification herein of the Loan Documents shall in no way affect the security of the Mortgage, the Assignment of Leases and the other Loan Documents for the payment of the Note. The Loan Documents as modified and amended hereby are hereby ratified and confirmed in all respects. All liens, security interests, mortgages and assignments granted or created by or existing under the Mortgage, the Assignment of Leases and the other Loan Documents remain unchanged and continue, unabated, in full force and effect, to secure Borrower's obligation to repay the Note.

11. Lien Status. Original Borrower and Borrower each hereby acknowledge and agree that the security title, liens, security interests and assignments created and evidenced by the Mortgage and the assignment created by the Assignment of Leases are valid and subsisting and further acknowledge and agree that there are no offsets, claims or defenses to the Note, the Mortgage, the Assignment of Leases or any of the other Loan Documents. This Agreement and the Indemnity shall each be deemed to be a Loan Document.

12. Acknowledgement of Assignment of Leases. Original Borrower and Borrower each hereby acknowledge and agree that Lender may exercise its rights relating to the Rents (as defined in the Assignment of Leases), in Lender's sole discretion and without prejudice to any particular remedy, otherwise allowed by applicable law.

13. Merger. This Agreement supersedes and merges all prior and contemporaneous promises, representations and agreements with respect to the subject matter hereof. No modification of this Agreement, the Note, the Mortgage, the Assignment of Leases, the Indemnity or any of the other Loan Documents or Assumption Documents, or any waiver of rights under any of the foregoing, shall be effective unless made by supplemental agreement, in writing, executed by Lender and Borrower. Lender, Original Borrower and Borrower further agree that this Agreement may not in any way be explained or supplemented by a prior, existing or future course of dealings between the parties or by any prior, existing or future performance between the parties pursuant to this Agreement or otherwise.

14. Notices. All notices, reports, requests or other written instruments required or permitted hereunder shall be in writing, signed by the party giving or making the same, and shall be sent hand-delivered, effective upon receipt, sent by United States Express Mail or by a nationally recognized overnight courier, effective upon receipt, or sent by United States registered or certified mail, postage prepaid, with return receipt requested, deemed effective on the earlier of the day of actual delivery as shown by the addressee's return receipt or the expiration of three (3) business days after the date of mailing, addressed to the party intended to receive the same at the address set forth below or at such other address as shall be given in writing by any party to another:

To Lender:	Nationwide Life Insurance Company One Nationwide Plaza, Fifth Floor Columbus, Ohio 43215 Attention: Real Estate Investments, 1-05-701 Loan No. 00-1102347
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To Original Borrower:	CLP-SPF Rookwood Commons LLC
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c/o Casto
250 Civic Center Drive, Suite 500
Columbus, Ohio 43215
Attention: Lisa Boveine

With a courtesy
copy to:

ROOKWOOD ACQUISITION COMPANY LLC
c/o J.P. Morgan Investment Management Inc.
270 Park Avenue
New York, NY 10017
Attention: Jeff Pisano

With a courtesy
copy to:

STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, NY 10038
Attention: Brian Diamond, Esq.

To Borrower:

HGREIT II Edmondson Road LLC
2800 Post Oak Boulevard
Suite 4800
Houston, Texas 77056-618
Attention: Kevin L. McMeans
Fax No: (713) 966-2075

With a courtesy
copy to:

HGREIT II Edmondson Road LLC
c/o Hines Advisors Limited Partnership
2800 Post Oak Boulevard
Suite 4800
Houston, Texas 77056-618
Attention: Jason P. Maxwell, Esq.
Fax No: (713) 966-2075

With a courtesy
copy to:

Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002
Attention: Connie Simmons Taylor, Esq.
Fax No: (713) 229-7850

15. Expenses of Lender. Contemporaneously with the execution and delivery hereof, Borrower or Original Borrower shall pay, or cause to be paid (in each case, to the extent not previously deposited with Lender), all reasonable out-of-pocket costs and expenses of Lender incident to the preparation hereof and the consummation of the transactions specified herein, without duplication, including without limitation title insurance policy premiums or endorsement charges, fees and expenses of legal counsel to Lender and recording fees.

16. Release. Original Borrower and Borrower hereby release, remise, acquit and forever discharge Lender, together with its employees, agents, representatives, consultants, attorneys, fiduciaries, trustees, substitute trustees, servants, officers, directors, partners, predecessors, successors and assigns, subsidiary corporations, parent corporations, and related corporate divisions (all of the foregoing are hereinafter referred to as the "Released Parties"), from any and all actions and causes of action, judgments, executions, suits,

debts, claims, demands, liabilities, obligations, damages and expenses of any and every character, known or unknown, direct and/or indirect, at law or in equity, of whatsoever kind or nature, whether heretofore or hereafter accruing, but only for or because of any matter or things done, omitted or suffered to be done by any of the Released Parties prior to and including the date hereof, and in any way directly or indirectly arising out of or in any way connected to this Agreement, the Note, the Mortgage, the Assignment of Leases or any of the other Loan Documents or Assumption Documents, or any of the transactions associated therewith, or the Property, including specifically but not limited to claims of usury, **which in whole or part is caused by or arises out of the NEGLIGENCE of Lender. However, the foregoing release shall not apply to the extent that a matter covered thereby is caused by or arises out of the gross negligence or willful misconduct of any of the Released Parties.** Original Borrower and Borrower hereby agree that Lender has no fiduciary or similar obligations to Original Borrower or Borrower and that their relationship is strictly that of creditor and debtor. This release is accepted by Lender pursuant to this Agreement and shall not be construed as an admission of liability on the part of Lender.

17. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

18. Severability of Provisions. If any covenant, condition or provision herein contained is held to be invalid by final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall not in any way affect any other covenant, condition or provision herein contained.

19. Time of the Essence. It is expressly agreed by the parties hereto that time is of the essence with respect to this Agreement.

20. Representation by Counsel. The parties acknowledge and confirm that each of their respective attorneys has participated jointly in the review and revision of this Agreement and that it has not been written solely by counsel for one party. The parties hereto therefore stipulate and agree that the rule of construction to the effect that any ambiguities are to or may be resolved against the drafting party shall not be employed in the interpretation of this Agreement to favor either party against the other.

21. Governing Law. The Note, Mortgage, this Agreement, the Indemnity and the other Loan Documents and Assumption Documents and the rights and duties of the parties thereunder and hereunder shall be governed for all purposes by the law of the State of Ohio and the law of the United States applicable to transactions within said State.

22. Successors and Assigns. The terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto, their representatives, successors and assigns.

23. Paragraph Headings. The paragraph headings set forth in this Agreement are for the convenience of the parties only, and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs in this Agreement.

24. Final Agreement. Original Borrower and Borrower and Lender hereby take notice of and agree to the following:

(a) THE NOTE, THE MORTGAGE, THE ASSIGNMENT OF LEASES, THE INDEMNITY, THE OTHER LOAN DOCUMENTS AND THIS AGREEMENT REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES THERETO AND MAY NOT BE CONTRADICTED BY

EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES THERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[SIGNATURE PAGE TO FOLLOW]

*SIGNATURE PAGE OF LENDER TO
ASSUMPTION AND MODIFICATION AGREEMENT*

IN WITNESS WHEREOF, this Agreement is executed under seal as of the date first above written.

**NATIONWIDE LIFE INSURANCE
COMPANY**, an Ohio corporation

By: /s/ Peter A. Lynch
Name: Peter A. Lynch
Title: Senior Investment Professional

STATE OF OHIO §
 § ss:
COUNTY OF FRANKLIN §

 This instrument was acknowledged before me on January __, 2017, by _____,
_____ of Nationwide Life Insurance Company, an Ohio corporation, on behalf of
said corporation.

Notary Public

My Commission Expires:

Printed/Typed Name of Notary

SIGNATURE PAGE OF ORIGINAL BORROWER TO
ASSUMPTION AND MODIFICATION AGREEMENT

IN WITNESS WHEREOF, this Agreement is executed under seal as of the date first above written.

CLP-SPF ROOKWOOD COMMONS, LLC,
a Delaware limited liability company

By: Rookwood Holding Company LLC, a Delaware limited liability company, its sole member

By: Casto Lifestyle Properties, L.P., an Ohio limited partnership,
its managing member

By: CLP Management LLC, an Ohio limited liability company, its general partner

By: /s/ Anthony A. Martin
Name: Anthony A. Martin
Title: Manager

STATE OF _____ :
 : ss:
COUNTY OF _____ :

Sworn to and acknowledged before me, a Notary Public in and for said state, by _____, the _____ of CLP Management LLC, an Ohio limited liability company, the general partner of Casto Lifestyle Properties, L.P., an Ohio limited partnership, the managing member of Rookwood Holding Company LLC, a Delaware limited liability company, the sole member of CLP – SPF Rookwood Commons, LLC, a Delaware limited liability company, for and on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunder subscribed my name and affixed my notarial seal on this _____ day of _____, 2016.

Notary Public

*SIGNATURE PAGE OF BORROWER TO
ASSUMPTION AND MODIFICATION AGREEMENT*

IN WITNESS WHEREOF, this Agreement is executed under seal as of the date first above written.

HGREIT II EDMONDSON ROAD LLC,
a Delaware limited liability company

By: /s/ Janice Walker
Name: Janice Walker
Title: Authorized Agent

STATE OF _____ §
 § ss:
COUNTY OF _____ §

Sworn to and acknowledged before me, a Notary Public in and for said state, by _____, the
_____ of HGREIT II EDMONDSON ROAD LLC, a Delaware limited liability company,
for and on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunder subscribed my name and affixed my notarial seal on
this _____ day of _____, 2016.

Notary Public

Prepared by and
upon recordation return to:

Maxwell W. Gerwin, Esq.
Dinsmore & Shohl
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

EXHIBIT A

Legal Description

Hines

News Release

For Immediate Release For Further Information, Contact:
January 9, 2017 George Lancaster, Hines
713/966-7676
George.lancaster@hines.com

HINES GLOBAL REIT II ACQUIRES PRIME RETAIL IN CINCINNATI

(CINCINNATI) – Hines, the international real estate firm, announced today that Hines Global REIT II, Inc. has acquired Rookwood Pavilion and Rookwood Commons, two contiguous shopping centers that operate as a single property referred to as Rookwood, located in the Midtown submarket of Cincinnati, Ohio.

Rookwood consists of 600,071 square feet of gross leasable area that is 97 percent leased to 73 leading retailers and restaurants, including Whole Foods, REI, Nordstrom Rack, T.J. Maxx, Joseph-Beth Booksellers, P.F. Chang's, and J. Alexander's. Known as a unique, high-end open-air lifestyle center, Rookwood serves a densely populated, urban trade area from its strategic location approximately five miles northeast of Cincinnati's dynamic central business district.

Sherri Schugart, president and CEO of Hines Global REIT II, said, "We were attracted to Rookwood because it contains an outstanding collection of retailers in an affluent, urban trade area with high barriers to entry. The center serves shoppers from all over Cincinnati and Northern Kentucky, including over 50,000 students at neighboring University of Cincinnati and Xavier University."

Hines Vice President/Property Management Dan Eifert noted, "Rookwood is conveniently located in close proximity to some of Cincinnati's most attractive and affluent neighborhoods, including Hyde Park, Oakley, Columbia-Tusculum and Mount Lookout. These neighborhoods have enjoyed rapid appreciation over the past five years, command some of the highest home values in Cincinnati, and have residents with some of the area's highest income levels, all of which have contributed to Rookwood's success."

This acquisition represents Hines Global REIT II's sixth purchase and is the first retail property in its portfolio. Eastdil Secured represented the seller in the transaction.

Hines Global REIT II is a public, non-listed real estate investment trust sponsored by Hines. It commenced operations in 2014 and invests in commercial real estate investments located in the United States and internationally. For additional information about Hines Global REIT II, visit www.hinessecurities.com/reits/hines-global-reit-2/.

Hines is a privately owned global real estate investment firm founded in 1957 with locations in 182 cities in 20 countries. As of December 31, 2015, Hines had \$89.1 billion of assets under management, including \$42.5 billion for which Hines provides fiduciary investment management services, and \$46.6 billion for which Hines provides third-party property-level services. Hines has developed, redeveloped or acquired 1,235 properties, totaling over 409 million square feet. The firm's current property and asset management portfolio includes 457 properties, representing over 193 million square feet. With extensive experience in investments across the risk spectrum and all property types, and a pioneering commitment to sustainability, Hines is one of the largest and most respected real estate organizations in the world. Visit www.hines.com for more information.

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Forward-Looking Statements

Statements in this press release, including intentions, beliefs, expectations or projections relating to the acquisition described herein, are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements are based on current expectations and assumptions with respect to, among other things, tenant performance, future economic, competitive and market conditions and future business decisions that may prove to be incorrect or inaccurate. Important factors that could cause actual results to differ materially from those in the forward-looking statements including the risks associated with the ability and willingness of the current tenants to continue to make rental payments pursuant to their lease agreements and other risks described in the "Risk Factors" section of Hines Global II's Annual Report on Form 10-K for the year ended December 31, 2015, as updated by its other filings with the Securities and Exchange Commission. You are cautioned not to place undue reliance on any forward-looking statements.