

EXHIBIT 5E
LCRA 3/4/20

(Space above reserved for Recorder of Deeds certification)

Title of Document: Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing

Date of Document: [DATE]

Grantor(s): Land Clearance for Redevelopment Authority of Kansas City, Missouri, as Borrower, and Hospital Hill Medical Office Building, LLC, as Master Lessee

Grantor's Mailing Address: 300 Wyandotte Street, Suite 400, Kansas City, Missouri 64105, with respect to Borrower
c/o Welltower Inc., 4500 Dorr Street, Toledo, Ohio 43615, with respect to Master Lessee

Grantee(s): Capital One, National Association

Grantee's Mailing Address: 77 West Wacker Drive, 10th Floor, Chicago, Illinois 60601

Legal Description: See Exhibit A on Page A-1

Reference Book and Page(s): N/A

This cover page is attached solely for the purpose of complying with the requirements stated in §§ 59.310(2); 59.313(2) Revised Missouri Statutes.

After recording, return to:
Thompson & Knight LLP
One Arts Plaza
1722 Routh Street, Suite 1500
Dallas, TX 75201
Attention: Adam B. Hill

THIS INSTRUMENT SECURES, AMONG OTHER THINGS, FUTURE ADVANCES AND FUTURE OBLIGATIONS PURSUANT TO, AND IS TO BE GOVERNED BY THE PROVISIONS OF, SECTION 443.055 OF THE REVISED STATUTES OF MISSOURI. THE TOTAL PRINCIPAL AMOUNT OF THE FUTURE ADVANCES AND FUTURE OBLIGATIONS THAT MAY BE SECURED HEREBY IS \$34,517,041.00.

**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
(Leasehold)**

This Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (this "**Deed of Trust**") is dated effective as of *_____, 20*__, by **LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY, MISSOURI**, a public body corporate and politic organized under the laws of Missouri and the ordinances of the City of Kansas City, Missouri ("**Borrower**"), whose address is 300 Wyandotte Street, Suite 400, Kansas City, Missouri 64105, and **HOSPITAL HILL MEDICAL OFFICE BUILDING, LLC**, a Delaware limited liability company ("**Master Lessee**", and together with Borrower, individually and collectively, as the context may require, "**Grantor**") whose address is c/o Welltower Inc., 4500 Dorr Street, Toledo, Ohio 43615, whose organizational number is *_____, to ***[MUST BE A MISSOURI RESIDENT OR MISSOURI CORPORATION** ("**Trustee**")], having an address at *_____, for the benefit of **CAPITAL ONE, NATIONAL ASSOCIATION** ("**CONA**"), in its capacity as administrative agent (in such capacity, "**Administrative Agent**") for the Lenders under the Loan Agreement described below, having an address at 77 West Wacker Drive, 10th Floor, Chicago, Illinois 60601, Attention: Credit Executive.

RECITALS:

A. Simultaneously with the execution of this Deed of Trust, the Persons listed on Schedule I hereto (including Borrower) (the "**Borrower Parties**"), Master Lessee, Administrative Agent and the initial Lenders have executed a Loan Agreement dated of even date herewith (as amended, modified, supplemented, extended, renewed or replaced from time to time, the "**Loan Agreement**"), pursuant to which Lenders have agreed to make a loan to the Borrower Parties in the maximum principal amount of \$288,894,100 (as amended, modified, supplemented, extended, renewed or replaced from time to time, the "**Loan**"), the payment of which is subject to Section 12.3 of the Loan Agreement. All capitalized terms used but not otherwise defined herein shall have the meaning provided in the Loan Agreement.

B. Grantor is required by the Loan Agreement to execute and deliver this Deed of Trust to, among other things, secure payment of the Indebtedness and performance of the Obligations, which Grantor is willing to do in consideration of the agreement of the Lenders to make the Loan to the Borrower Parties pursuant to the terms of the Loan Agreement.

AGREEMENT:

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Administrative Agent agree as follows:

ARTICLE 1 **DEFINITIONS**

Section 1.1 **Definitions.** As used herein, the following terms shall have the following meanings:

“Ground Lease”: The Ground Lease dated as of March 4, 2014, as amended by a First Amendment to Ground Lease dated as of July 1, 2014, executed between Ground Lessor, as landlord, and Master Lessee, as tenant, as amended by Amendment to Hospital Hill Documents dated October 14, 2015, recorded as Document No. 2015E0094023 in the records of Jackson County, Missouri, as evidenced by Memorandum of Ground Lease dated as of July 25, 2014, recorded on July 30, 2014, as Document No. 2014E0062508 in the records of Jackson County, Missouri, as amended by Amendment to Hospital Hill Documents dated October 14, 2015, recorded as Document No. 2015E0094023 in the records of Jackson County, Missouri, the interest of tenant thereunder having been assigned to LCRA pursuant to Assignment and Assumption of Lessee's Interest in Ground Lease by and between Master Lessee and LCRA dated as of July 25, 2014, recorded on July 30, 2014, as Document No. 2014E0062718 in the records of Jackson County, Missouri, as the same may be further amended or modified from time to time.

“Ground Lessor”: Truman Medical Center Incorporated, a Missouri non-profit corporation, and any successor-in-interest to Truman Medical Center Incorporated.

“Indebtedness”: The sum of all principal, interest and all other amounts due under or secured by the Loan Documents.

“LCRA” means Land Clearance for Redevelopment Authority of Kansas City, Missouri, a public body corporate and politic organized under the laws of Missouri and the ordinances of the City of Kansas City, Missouri.

“LCRA Documents” has the meaning assigned in the Loan Agreement.

“LCRA Termination Right” has the meaning assigned in the Loan Agreement.

“Loan Documents”: The (a) Loan Agreement, (b) Note, (c) this Deed of Trust, (d) all other documents included within the definition of “Loan Documents” in the Loan Agreement, (e) all other documents now or hereafter executed by Borrower, Master Lessee, any other Borrower Party, or any other Person, to evidence, secure or guaranty the payment of all or any portion of the Indebtedness or the performance of all or any portion of the Obligations or otherwise executed in connection with the Note or this Deed of Trust, and (f) all modifications, restatements, extensions, renewals and replacements of the foregoing; provided however, in no event shall the term **“Loan**

Documents” include that certain Environmental Indemnity Agreement dated the date hereof in favor of Administrative Agent and Lenders.

“Master Lease”: The Master Lease dated as of July 25, 2014, between LCRA, as landlord, and Master Lessee, as tenant, as evidenced by Memorandum of Master Lease dated as of July 25, 2014, recorded on July 30, 2014, as Document No. 2014E0063360 in the records of Jackson County, Missouri, as amended by Amendment to Hospital Hill Documents dated October 14, 2015, recorded as Document No. 2015E0094023 in the records of Jackson County, Missouri, as the same may be further amended or modified from time to time, as affected by Non Disturbance, Recognition and Attornment Agreement dated as of July 25, 2014, recorded on August 4, 2014, as Document No. 2014E0063992 in the records of Jackson County, Missouri, executed among Ground Lessee, Borrower and Master Lessee. Unless earlier terminated pursuant to a LCRA Termination Right, the term of the Master Lease expires at 11:59 p.m. on July 24, 2039.

“Mortgaged Property”: (a) Borrower’s leasehold estate created under the Ground Lease in the real property described in Exhibit A (the **“Land”**), together with any greater estate therein as hereafter may be acquired by Borrower, (b) Borrower’s fee estate (subject to the Ground Lease) and any leasehold estate in all buildings, structures and other improvements, now or at any time situated, placed or constructed upon the Land (the **“Improvements”**), (c) Master Lessee’s leasehold estate created under the Master Lease in the Land and Improvements, including all right title and interest of Master Lessee therein under the Master Lease and together with any greater estate therein as hereafter may be acquired by Master Lessee, (d) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by Grantor and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Land, and water, gas, electrical, storm and sanitary sewer facilities and all other utilities whether or not situated in easements (the **“Fixtures”**), (e) all right, title and interest of Grantor in and to all goods, accounts, general intangibles, investment property, instruments, letters of credit, letter-of-credit rights, deposit accounts, documents, chattel paper and all other personal property of any kind or character, including such items of personal property as presently or hereafter defined in the UCC, now owned or hereafter acquired by Grantor and now or hereafter affixed to, placed upon, used in connection with, arising from or otherwise related to the Land and Improvements or which may be used in or relating to the planning, development, financing or operation of the Mortgaged Property, including, without limitation, furniture, furnishings, equipment, machinery, money, insurance proceeds, accounts, contract rights, software, trademarks, goodwill, promissory notes, electronic and tangible chattel paper, payment intangibles, documents, trade names, licenses and/or franchise agreements, rights of Grantor under leases of Fixtures or other personal property or equipment, inventory, all refundable, returnable or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Grantor with any governmental authorities, boards, corporations, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable or reimbursable tap fees, utility deposits, commitment fees and development costs, commercial tort claims arising from the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Mortgaged Property, all accounts arising from the operation of the Mortgaged Property, all tax refunds, including interest thereon, tax credits, rebates and abatements payable or available with respect to the Mortgaged Property, and all rights to payment from state or federal

programs, boards, bureaus or agencies and rights to payment from patients, private insurers and others arising from the operation of the Mortgaged Property to the extent assignable or that a security interest therein may be granted as a matter of applicable law and under the terms thereof, including healthcare receivables (the “**Personalty**”), (f) all reserves, escrows or impounds required under the Loan Agreement and all deposit accounts (including accounts holding security deposits) maintained by Grantor with respect to the Mortgaged Property, (g) all plans, specifications, shop drawings and other technical descriptions prepared for construction, repair or alteration of the Improvements, and all amendments and modifications thereof (the “**Plans**”), (h) all leases, subleases, licenses, concessions, occupancy agreements, rental contracts, or other agreements (written or oral) now or hereafter existing relating to the use or occupancy of all or any part of the Mortgaged Property, together with all guarantees, letters of credit and other credit support, modifications, extensions and renewals thereof (whether before or after the filing by or against Grantor of any petition of relief under 11 U.S.C. § 101 et seq., as same may be amended from time to time (the “**Bankruptcy Code**”)) and all related security and other deposits (the “**Leases**”) and all of Grantor’s claims and rights (the “**Bankruptcy Claims**”) to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code, (i) all of the rents, revenues, liquidated damages payable upon default under the Leases, issues, income, proceeds, profits, and all other payments of any kind under the Leases for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying the Mortgaged Property whether paid or accruing before or after the filing by or against Grantor of any petition for relief under the Bankruptcy Code (the “**Rents**”), (j) all other agreements, such as construction contracts, architects’ agreements, engineers’ contracts, utility contracts, maintenance agreements, franchise agreements, service contracts, permits, licenses, certificates and entitlements in any way relating to the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Mortgaged Property, in each case, to the extent the same may be encumbered or assigned by Grantor (including, but not limited to, if such encumbrance or assignment is permitted provided consent to assignment or encumbrance is obtained), pursuant to the terms thereof and to the extent permitted by applicable law (the “**Property Agreements**”), (k) all rights, privileges, tenements, hereditaments, rights-of-way, easements (including, without limitation, any easements described on Exhibit A), appendages and appurtenances appertaining to the foregoing, and all right, title and interest, if any, of Grantor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof, (l) all insurance policies (regardless of whether required by Administrative Agent), unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by Grantor, (m) all mineral, water, oil and gas rights now or hereafter acquired and relating to all or any part of the Mortgaged Property, (n) all tradenames, trademarks, service marks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Mortgaged Property, (o) all of Grantor’s right, title and interest in and to any awards, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Land, Improvements, Fixtures or Personalty, and (p) all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof. As used in this Deed of Trust, the term “**Mortgaged Property**” shall mean all or, where the context permits or requires, any portion of the above or any interest therein.

“Note”: Individually and collectively, as the context may require, (a) each promissory note executed at any time by Borrower Parties and payable to the order of a Lender in evidence of the Loan of such Lender, in the aggregate amount of \$288,894,100, which notes are due and payable on *_____, 20__ [*60 MONTHS] and (b) each note executed by Borrower Parties and payable to the order of a Lender in replacement thereof, as each of the above may be amended, modified, supplemented, extended, renewed or replaced from time to time.

“Obligations”: Has the meaning assigned such term in the Loan Agreement and includes, without limitation, all of the agreements, covenants, conditions, warranties, representations and other obligations (other than to repay the Indebtedness) made or undertaken by Grantor, the other Borrower Parties or any other Person to the Secured Parties or others as set forth in the Loan Documents, including the obligations under any Secured Hedge Agreement and Lender Cash Management Agreement.

“Permitted Encumbrances”: The outstanding liens, easements, restrictions, security interests and other exceptions to title set forth in the policy of title insurance insuring the lien of this Deed of Trust, together with the liens and security interests in favor of Administrative Agent created by the Loan Documents.

“Recognition Agreement”: The Ground Lessor’s Estoppel, Consent and Non-Disturbance Agreement dated of even date herewith, executed among Ground Lessor, Grantor and Administrative Agent, recorded in the records of Jackson County, Missouri, as amended or modified from time to time.

“State”: The State of Missouri.

“UCC”: The Uniform Commercial Code of the State in effect from time to time or, if the creation, perfection and enforcement of any security interest herein granted is governed by the laws of a state other than the State, then, as to the matter in question, the Uniform Commercial Code in effect in that state from time to time.

Section 1.2 **Other Terms**. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Loan Agreement.

ARTICLE 2 **GRANT**

Section 2.1 **Grant**. To secure the full and timely payment of the Indebtedness and the full and timely performance of the Obligations, Grantor hereby GRANTS, BARGAINS, SELLS, CONVEYS, CONFIRMS, WARRANTS, and ASSIGNS, IN TRUST WITH POWER OF SALE to Trustee (and with respect to any portions of the Mortgaged Property that constitute personal property, to Administrative Agent) the Mortgaged Property, subject, however, to the Permitted Encumbrances; TO HAVE AND TO HOLD the Mortgaged Property to Trustee, IN TRUST, WITH POWER OF SALE, and Borrower and Master Lessee do hereby bind themselves, their successors and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged

Property unto Trustee and Administrative Agent and their respective successors, substitutes and assigns.

ARTICLE 3

WARRANTIES, REPRESENTATIONS AND COVENANTS

Grantor warrants, represents and covenants to Administrative Agent as follows:

Section 3.1 **Title to Mortgaged Property and Lien of this Instrument**. Grantor owns the Mortgaged Property free and clear of any liens, claims or interests, except the Permitted Encumbrances. This Deed of Trust creates valid, enforceable first priority liens and security interests against the Mortgaged Property. Grantor warrants that Grantor has good, marketable and insurable title to the Mortgaged Property, subject to the Permitted Encumbrances.

Section 3.2 **First Lien Status**. Grantor shall preserve and protect the first lien and security interest status of this Deed of Trust and the other Loan Documents. If any lien or security interest other than the Permitted Encumbrances is asserted against the Mortgaged Property, Grantor shall promptly, and at Master Lessee's expense, (a) give Administrative Agent a detailed written notice of such lien or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or, in Administrative Agent's discretion, provide a bond or other security satisfactory to Administrative Agent for the payment of such claim.

Section 3.3 **Replacement of Fixtures and Personalty**. Grantor shall not, without the prior written consent of Administrative Agent, permit any of the Fixtures or Personalty to be removed at any time from the Land or Improvements, unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is obsolete and is replaced by an article of equal or better suitability and value, owned by Grantor subject to the liens and security interests of this Deed of Trust and the other Loan Documents, and free and clear of any other lien or security interest except such as may be first approved in writing by Administrative Agent.

Section 3.4 **Inspection**. Subject to, and in accordance with the terms of Section 7.4 of the Loan Agreement, Grantor shall permit Secured Parties and their agents, representatives and employees, upon reasonable prior notice to Grantor, to inspect the Mortgaged Property.

Section 3.5 **Other Covenants**. All of the covenants in (a) the Loan Agreement, (b) the Note and (c) any of the other Loan Documents are incorporated herein by reference and are made a part of this Deed of Trust to the same extent and with the same force as if fully set forth herein and, together with covenants in this Article 3, shall be covenants running with the land. The covenants set forth in the Loan Agreement include, among other provisions: (v) the obligation to pay when due all taxes on the Mortgaged Property or assessed against Administrative Agent with respect to the Loan, (w) the right of Secured Parties to inspect the Mortgaged Property, (x) the obligation to keep the Mortgaged Property insured as Administrative Agent may require, (y) the obligation to comply with all legal requirements (including environmental laws), maintain the Mortgaged Property in good condition, and promptly repair any damage or casualty, and (z) except as otherwise permitted under the Loan Agreement, the obligation of Grantor to obtain

Administrative Agent's consent prior to entering into, modifying or taking other actions with respect to Leases.

Section 3.6 Condemnation Awards and Insurance Proceeds.

(a) **Condemnation Awards.** Subject to the terms of the Loan Agreement, Ground Lease and Recognition Agreement, Grantor assigns all awards and compensation for any condemnation or other taking, or any purchase in lieu thereof, to Administrative Agent and authorizes Administrative Agent to collect and receive such awards and compensation and to give proper receipts and acquittances therefor. The provisions of Section 3.3 of the Loan Agreement regarding the use and application of awards and compensation for any condemnation or other taking, or any purchase in lieu thereof, are incorporated herein by reference. Administrative Agent will make any such award or compensation available for restoration of the Mortgaged Property as set forth in Article XIV of the Ground Lease, subject to satisfaction of the Disbursement Conditions (as defined in the Ground Lease).

(b) **Insurance Proceeds.** Subject to the terms of the Loan Agreement, Ground Lease and Recognition Agreement, Grantor assigns to Administrative Agent all proceeds of any insurance policies insuring against loss or damage to the Mortgaged Property. Grantor authorizes Administrative Agent to collect and receive such proceeds and authorizes and directs the issuer of each of such insurance policies to make payment for all such losses directly to Administrative Agent, instead of to Grantor and Administrative Agent jointly. The provisions of Section 3.2 of the Loan Agreement regarding the use and application of insurance proceeds are incorporated herein by reference. Administrative Agent will make any proceeds of insurance policies available for restoration of the Mortgaged Property as set forth in Article XIII of the Ground Lease, subject to satisfaction of the Disbursement Conditions.

Section 3.7 Transfer or Encumbrance of Mortgaged Property. Grantor shall not permit or suffer any Transfer to occur, unless specifically permitted by Section 7.1 of the Loan Agreement or unless Administrative Agent shall consent thereto in writing.

ARTICLE 4
DEFAULT AND FORECLOSURE

Section 4.1 Remedies. If an Event of Default exists, Administrative Agent may, at Administrative Agent's election, and by or through Trustee or otherwise, exercise any or all of the following rights, remedies and recourses to the extent permitted by applicable law:

(a) **Acceleration.** Subject to any applicable provisions of the other Loan Documents, declare the Indebtedness to be immediately due and payable, without (except to the extent expressly required by this Agreement, the other Loan Documents, or applicable law) further notice, presentment, protest, notice of intent to accelerate, notice of acceleration, demand or action of any nature whatsoever (each of which hereby is expressly waived by Grantor), whereupon the same shall become immediately due and payable.

(b) **Entry on Mortgaged Property.** Subject to the terms of the Loan Agreement and the rights of tenants under their Leases, upon reasonable notice, enter the Mortgaged Property and take exclusive possession thereof and of all books, records and accounts relating thereto. If Grantor remains in possession of the Mortgaged Property after an Event of Default and without Administrative Agent's prior written consent, Administrative Agent may invoke any legal remedies to dispossess Grantor.

(c) **Operation of Mortgaged Property.** Subject to the terms of the Ground Lease and the Recognition Agreement, hold, lease, develop, manage, operate or otherwise use the Mortgaged Property upon such terms and conditions as Administrative Agent may deem reasonable under the circumstances (making such repairs, alterations, additions and improvements and taking other actions, from time to time, as Administrative Agent deems necessary or desirable), and apply all Rents and other amounts collected by Administrative Agent or Trustee in connection therewith in accordance with the provisions of Section 4.7.

(d) **Foreclosure and Sale.** Initiate foreclosure proceedings to sell or offer for sale the Mortgaged Property, with or without having first taken possession of same, to the highest bidder for cash at public auction in accordance with applicable law. Such sale shall be made in accordance with the laws of the State relating to the sale of real estate or by Chapter 9 of the UCC relating to the sale of collateral after default by a debtor (as such laws now exist or may be hereafter amended or succeeded), or by any other present or subsequent articles or enactments relating to same. At any such sale (i) whether made under the power herein contained, the UCC, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Trustee to be physically present at, or to have constructive possession of, the Mortgaged Property (Grantor shall deliver to Trustee any portion of the Mortgaged Property not actually or constructively possessed by Trustee immediately upon demand by Trustee), and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if Trustee had been actually present at the Mortgaged Property and delivered to purchaser at such sale, (ii) each instrument of conveyance executed by Trustee shall be by trustee's deed and shall be binding upon Grantor, (iii) each recital contained in any instrument of conveyance made by Trustee shall conclusively establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment of the Indebtedness, advertisement and conduct of such sale in the manner provided herein and otherwise by law, and appointment of any successor Trustee hereunder, (iv) any prerequisites to the validity of such sale shall be conclusively presumed to have been performed, (v) the receipt of Trustee or other party making the sale shall be a sufficient discharge to the purchaser or purchasers for his or their purchase money and no such purchaser or purchasers, or his or their assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof, and (vi) to the fullest extent permitted by law, Grantor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Grantor, and against all other Persons claiming or to claim the property sold or any part thereof, by, through or under Grantor. Administrative Agent may be a purchaser at such sale and if Administrative Agent is the highest bidder, may credit the

portion of the purchase price that would be distributed to Administrative Agent against the Indebtedness in lieu of paying cash.

(e) **Receiver.** Make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Grantor or regard to the adequacy of the Mortgaged Property for the repayment of the Indebtedness, the appointment of a receiver of the Mortgaged Property, and Grantor irrevocably consents to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court, and shall apply such Rents in accordance with the provisions of Section 4.7.

(f) **UCC.** Exercise any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing, but in each case subject to the terms of the Loan Agreement: (i) the right to take possession of the personal property or any part thereof, and to take such other measures as Administrative Agent may deem necessary for the care, protection and preservation of the personal property, and (ii) request Grantor at its expense to assemble the personal property and make it available to Administrative Agent at a convenient place acceptable to Administrative Agent. Unless otherwise required by applicable law, any notice of sale, disposition or other intended action by Administrative Agent with respect to the personal property sent to Grantor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Grantor.

(g) **Other.** Exercise all other rights, remedies and recourses granted under the Loan Documents or otherwise available at law or in equity (including an action for specific performance of any covenant contained in the Loan Documents, or a judgment on the Note either before, during or after any proceeding to enforce this Deed of Trust).

Section 4.2 **Separate Sales.** To the extent permitted by applicable law, the Mortgaged Property may be sold in one or more parcels and in such manner and order as Trustee, in Trustee's sole discretion, may elect; the right of sale arising out of any Event of Default shall not be exhausted by any one or more sales.

Section 4.3 **Remedies Cumulative, Concurrent and Nonexclusive.** Administrative Agent shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including the UCC), which rights (a) shall be cumulative and concurrent, (b) may be pursued separately, successively or concurrently against Grantor or others obligated under the Note and the other Loan Documents, or against the Mortgaged Property, or against any one or more of them, at the sole discretion of Administrative Agent, (c) may be exercised as often as occasion therefor shall arise, and the exercise or failure to exercise any of them shall not be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive. No action by Administrative Agent in the enforcement of any rights, remedies or recourses under the Loan Documents or otherwise at law or equity shall be deemed to cure any Event of Default.

Section 4.4 **Release of and/or Resort to Collateral.** Upon the occurrence and during the continuance of an Event of Default, Administrative Agent may release, regardless of

consideration and without the necessity for any notice to or consent by the holder of any subordinate lien on the Mortgaged Property, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interests created in or evidenced by the Loan Documents or their stature as a first and prior lien and security interest in and to the Mortgaged Property. For payment of the Indebtedness and the Obligations, Administrative Agent may resort to any other security in such order and manner as Administrative Agent may elect.

Section 4.5 **Waiver of Redemption, Notice and Marshalling of Assets.** To the fullest extent permitted by law, Grantor hereby irrevocably and unconditionally waives and releases (a) all benefit that might accrue to Grantor by virtue of any present or future statute of limitations or law or judicial decision exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment, (b) except for notices expressly provided for under the Loan Documents, all notices of any Event of Default or of Trustee's election to exercise or Trustee's actual exercise of any right, remedy or recourse provided for under the Loan Documents, and (c) any right to a marshalling of assets or a sale in inverse order of alienation.

Section 4.6 **Discontinuance of Proceedings.** If Administrative Agent shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents and shall thereafter elect to discontinue or abandon it for any reason, Administrative Agent shall have the unqualified right to do so and, in such an event, Grantor and Administrative Agent shall be restored to their former positions with respect to the Indebtedness, the Obligations, the Loan Documents, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Administrative Agent shall continue as if the right, remedy or recourse had never been invoked, but no such discontinuance or abandonment shall waive any Event of Default which may then exist or the right of Administrative Agent thereafter to exercise any right, remedy or recourse under the Loan Documents for such Event of Default.

Section 4.7 **Application of Proceeds.** During the existence of an Event of Default, the proceeds of any sale of, and the Rents and other amounts generated by the holding, leasing, management, operation or other use of the Mortgaged Property, shall be applied by Administrative Agent or Trustee (or the receiver, if one is appointed) in the following order, or such order as Administrative Agent may elect in its sole discretion, unless otherwise required by applicable law or the Loan Agreement:

(a) to the payment of the reasonable out-of-pocket costs and expenses of taking possession of the Mortgaged Property and of holding, using, leasing, repairing, improving and selling the same, including, without limitation (i) Trustee's and receiver's fees and expenses, (ii) court costs, (iii) reasonable attorneys' and accountants' fees and expenses, (iv) costs of advertisement, (v) insurance premiums, (vi) electricity, telephone, water and other utility costs, water charges and sewer rents and other utility governmental charges levied, assessed or imposed against the Mortgaged Property, (vii) costs and expenses with respect to any litigation affecting the Mortgaged Property, the Leases or the Rents, (viii) wages and salaries of employees, commissions of agents and attorneys' fees and expenses, (ix) the payment of all ground rent, real estate taxes and assessments, except any taxes, assessments or other charges subject to which the

Mortgaged Property shall have been sold, and (x) all other carrying costs, fees, charges, reserves, and expenses whatsoever relating to the Mortgaged Property;

(b) to the payment of all amounts (including interest), other than the unpaid principal balance of the Note and accrued but unpaid interest, which may be due to Administrative Agent under the Loan Documents;

(c) to the payment of the Indebtedness and performance of the Obligations in such manner and order of preference as Administrative Agent in its sole discretion may determine; and

(d) the balance, if any, to the payment of the Persons legally entitled thereto.

Section 4.8 **No Waiver.** The exercise or non-exercise by Administrative Agent of the rights granted in this Deed of Trust or the collection and application of Rents by Administrative Agent or its agent shall not be a waiver of any default by Grantor under this Deed of Trust or any other Loan Document. No action or failure to act by Administrative Agent with respect to any obligations of Grantor and the other Borrower Parties under the Loan Documents, or any security or guaranty given for the payment or performance thereof, shall in any manner affect, impair or prejudice any of Administrative Agent's rights and privileges under this Deed of Trust, or discharge, release or modify any of Grantor's duties or obligations hereunder.

Section 4.9 **Occupancy After Foreclosure.** The purchaser at any foreclosure sale pursuant to Section 4.1(d) shall become the legal owner of the Mortgaged Property. All occupants of the Mortgaged Property shall, at the option of such purchaser, become tenants of the purchaser at the foreclosure sale and shall deliver possession thereof immediately to the purchaser upon demand. To the extent permitted by applicable law, it shall not be necessary for the purchaser at said sale to bring any action for possession of the Mortgaged Property other than the statutory action of forcible detainer in any justice court having jurisdiction over the Mortgaged Property.

Section 4.10 **Additional Advances and Disbursements; Costs of Enforcement.**

(a) If any Event of Default exists, Administrative Agent shall have the right, but not the obligation, to cure such Event of Default in the name and on behalf of Grantor. All sums advanced and expenses incurred at any time by Administrative Agent under this Section 4.10, or otherwise under this Deed of Trust or any of the other Loan Documents or applicable law, shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at the Default Rate, and all such sums, together with interest thereon, shall be secured by this Deed of Trust.

(b) Master Lessee shall pay all expenses (including reasonable attorneys' fees and expenses) of or incidental to the perfection and enforcement of this Deed of Trust and the other Loan Documents, or the enforcement, compromise or settlement of the Indebtedness and the Obligations or any claim under this Deed of Trust and the other Loan Documents, and for the curing thereof, or for defending or asserting the rights and claims of Administrative Agent in respect thereof, by litigation or otherwise (including, without limitation, litigation preparation

costs and expenses, paraprofessional fees, secretarial overtime, depositions, electronic research, postage, travel, communications and related costs and expenses).

Section 4.11 **No Mortgagee in Possession.** Neither the enforcement of any of the remedies under this Article 4, the assignment of the Rents and Leases under Article 5, the security interests under Article 6, nor any other remedies afforded to Administrative Agent under the Loan Documents, at law or in equity shall cause Administrative Agent to be deemed or construed to be a mortgagee in possession of the Mortgaged Property, to obligate Administrative Agent to lease the Mortgaged Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

Section 4.12 **Actions and Proceedings.** Administrative Agent has the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of Grantor, which Administrative Agent, in Administrative Agent's reasonable discretion, decides should be brought to protect Administrative Agent's interest in the Mortgaged Property.

ARTICLE 5

ASSIGNMENT OF RENTS AND LEASES

Section 5.1 **Absolute Assignment.** Grantor unconditionally and absolutely assigns to Administrative Agent, for the benefit of the Lenders, all of Grantor's right, title and interest in and to: (a) all Leases; (b) all Rents; (c) all Bankruptcy Claims; and (d) any and all other rights of Grantor in and to the items set forth in clauses (a) through (c) above, and all amendments, modifications, replacements, renewals, proceeds and substitutions thereof. This is an absolute assignment to Administrative Agent, for the benefit of the Lenders, and not an assignment as security for the performance of the obligations under the Loan Documents, or any other indebtedness, and such absolute assignment is presently and immediately effective. Notwithstanding the foregoing, the absolute assignment contained herein shall not itself reduce the obligations of Grantor owing to Administrative Agent or the Lenders under the Loan Documents unless and until Administrative Agent actually receives (for the benefit of the Lenders) the Rents and such Rents are applied by Administrative Agent (for the account of the Lenders) to such obligations pursuant to Section 5.4 below.

Section 5.2 **Rights of Administrative Agent.** Subject to the provisions of Section 5.4 below, Administrative Agent shall have the right, power and authority to: (a) notify any Person that the Leases have been assigned to Administrative Agent and that all Rents are to be paid directly to Administrative Agent, whether or not Administrative Agent has commenced or completed foreclosure or taken possession of the Mortgaged Property; (b) settle, compromise, release, extend the time of payment of, and make allowances, adjustments and discounts of any Rents or other obligations under the Leases; (c) enforce payment of Rents and other rights under the Leases, prosecute any action or proceeding, and defend against any claim with respect to Rents and Leases; (d) enter upon, take possession of and operate the Mortgaged Property; (e) lease all or any part of the Mortgaged Property; and/or (f) perform any and all obligations of Grantor under the Leases and exercise any and all rights of Grantor therein contained to the full extent of Grantor's rights and obligations thereunder, with or without the bringing of any action or the

appointment of a receiver. At Administrative Agent's request, Grantor shall deliver a copy of this Deed of Trust to each tenant under a Lease and to each manager and managing agent or operator of the Mortgaged Property. Grantor irrevocably directs any tenant, manager, managing agent, or operator of the Mortgaged Property, without any requirement for notice to or consent by Grantor, to comply with all demands of Administrative Agent under this Deed of Trust and, subject to the terms of the Loan Agreement, to turn over to Administrative Agent on demand all Rents which it receives.

Section 5.3 **No Obligation or Liability.** Notwithstanding Administrative Agent's rights hereunder, neither Administrative Agent nor Lenders shall be obligated to perform, and neither Administrative Agent nor the Lenders undertakes to perform, any obligation, duty or liability with respect to the Leases, Rents or Mortgaged Property on account of this Deed of Trust. Neither Administrative Agent nor Lenders shall have any responsibility on account of this Deed of Trust for the control, care, maintenance or repair of the Mortgaged Property, for any waste committed on the Mortgaged Property, for any dangerous or defective condition of the Mortgaged Property (except to the extent determined to have been caused by the gross negligence or willful misconduct Administrative Agent or Lenders, as determined by a court of competent jurisdiction in a final, non-appealable judgment), **OR FOR ANY NEGLIGENCE IN THE MANAGEMENT, UPKEEP, REPAIR OR CONTROL OF THE MORTGAGED PROPERTY.** Neither Administrative Agent nor Lenders shall be liable for any loss sustained by Grantor resulting from Administrative Agent's or Lenders' failure to let the Mortgaged Property after an Event of Default or from any other act or omission of Administrative Agent or Lenders in managing the Mortgaged Property after an Event of Default. Nothing herein contained shall be construed as constituting Administrative Agent or any Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Mortgaged Property by Administrative Agent. In the exercise of the powers herein granted Administrative Agent, no liability shall be asserted or enforced against Administrative Agent or Lenders, all such liability being expressly waived and released by Grantor.

Section 5.4 **Revocable License.** Notwithstanding that this assignment in this Article 5 is an absolute assignment of the Rents and Leases and not merely the collateral assignment of, or the grant of a lien or security interest in the Rents and Leases, subject to the terms of this Section 5.4 and any Deposit Account Control Agreement, Administrative Agent grants to Grantor a revocable license to collect and receive the Rents and to retain, use and enjoy such Rents. Such license shall be automatically revoked upon the occurrence of any Event of Default and Administrative Agent shall immediately be entitled to receive and apply all Rents, whether or not Administrative Agent enters upon and takes control of the Mortgaged Property; provided, however, that Administrative Agent may at any time, and from time to time, reinstate the revocable license. Prior to such revocation, Grantor shall apply any Rents which it receives to the payment of debt service on the Note and other payments due under the Loan Agreement, taxes, assessments, water charges, sewer rents and other governmental charges levied, assessed or imposed against the Mortgaged Property, insurance premiums, operation and maintenance charges relating to the Mortgaged Property, and other obligations of lessor under the Leases before using such proceeds for any other purpose. Administrative Agent is hereby granted and assigned by Grantor the right, at its option, upon the revocation of the license granted herein to enter upon the Mortgaged

Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of the license herein granted may be applied toward payment of the Indebtedness in such priority and proportion as Administrative Agent, in its discretion, shall deem proper.

Section 5.5 **No Merger of Estates.** So long as any part of the Indebtedness and the Obligations secured hereby remain unpaid and undischarged, the fee and leasehold estates to the Mortgaged Property shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Grantor, Administrative Agent, any lessee or any third party by purchase or otherwise.

Section 5.6 **Indemnification.** Grantor shall indemnify, defend and hold harmless Administrative Agent and the Lenders from and against all liability, loss, damage, cost or expense which it may incur under this Deed of Trust or under any of the Leases, including any claim against Administrative Agent or the Lenders by reason of any alleged obligation, undertaking, action, or inaction on its part to perform or discharge any terms, covenants or conditions of the Leases or with respect to Rents, and including attorneys' fees and expenses, **INCLUDING ANY LIABILITY, LOSS, DAMAGE, COST OR EXPENSE ARISING AS A RESULT OF THE NEGLIGENCE OF ADMINISTRATIVE AGENT OR LENDERS**, but excluding any liability, loss, damage, cost or expense arising as a result of Administrative Agent's or Lenders' gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final, non-appealable judgment). Any amount covered by this indemnity shall be payable within thirty (30) days after written demand, and shall bear interest from the date of demand until the same is paid by Grantor to Administrative Agent at a rate equal to the Default Rate.

Section 5.7 **Bankruptcy.**

(a) At any time during the existence of an Event of Default, Administrative Agent shall have the right to proceed in its own name or in the name of Grantor in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Grantor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

(b) If there shall be filed by or against Grantor a petition under the Bankruptcy Code, and Grantor, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Grantor shall give Administrative Agent not less than thirty (30) days' prior notice of the date on which Grantor shall apply to the bankruptcy court for authority to reject the Lease. Administrative Agent shall have the right, but not the obligation, to serve upon Grantor within such ten-day period a notice stating that (i) Administrative Agent demands that Grantor assume and assign the Lease to Administrative Agent, for the benefit of the Lenders, pursuant to Section 365 of the Bankruptcy Code, and (ii) Administrative Agent covenants to cure or provide adequate assurance of future performance under the Lease. If Administrative Agent serves upon Grantor the notice described in the preceding sentence, Grantor shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the

performance by Administrative Agent of the covenant provided for in clause (ii) of the preceding sentence.

ARTICLE 6

SECURITY AGREEMENT

Section 6.1 **Security Interest.** This Deed of Trust constitutes a “**Security Agreement**” on personal property within the meaning of the UCC and other applicable law with respect to the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements. To this end, Grantor grants to Trustee and Administrative Agent, a first and prior security interest in the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements and all other Mortgaged Property which is personal property to secure the payment of the Indebtedness and performance of the Obligations, and agrees that Administrative Agent shall have all the rights and remedies of a secured party under the UCC with respect to such property. Unless otherwise required by applicable law, any notice of sale, disposition or other intended action by Administrative Agent with respect to the Personalty, Fixtures, Plans, Leases, Rents and Property Agreements sent to Grantor at least ten (10) days prior to any action under the UCC shall constitute reasonable notice to Grantor.

Section 6.2 **Further Assurances.** Grantor shall execute and deliver to Administrative Agent, in form and substance satisfactory to Administrative Agent, such further documents and assurances as Administrative Agent may, from time to time, reasonably consider necessary to create, perfect and preserve Administrative Agent’s security interest hereunder and Administrative Agent may cause such documents and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest; provided, that such further documents and assurances do not increase the liability or obligations or decrease the rights of Grantor from those provided in the Loan Documents. Borrower is a public body corporate and politic organized under the laws of Missouri and the ordinances of the City of Kansas City, Missouri, and its chief executive office is in the State of Missouri at the address set forth in the first paragraph of this Deed of Trust. Master Lessee’s state of organization is the State of Delaware and its chief executive office is in the State of *_____ at the address set forth in the first paragraph of this Deed of Trust. Grantor hereby irrevocably authorizes Administrative Agent at any time and from time to time to file, without the signature of Grantor, in any jurisdiction any amendments to existing financing statements and any initial financing statements and amendments thereto that (a) indicate the Mortgaged Property (i) as “all assets of Grantor and all proceeds thereof, and all rights and privileges with respect thereto” or words of similar effect, regardless of whether any particular asset comprised in the Mortgaged Property falls within the scope of Article/Chapter 9 of the UCC, or (ii) as being of an equal or lesser scope or with greater detail; (b) contain any other information required by subchapter E of the Article/Chapter 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including whether Grantor is an organization, the type of organization and any organization identification number issued to Grantor; and (c) are necessary to properly effectuate the transactions described in the Loan Documents, as determined by Administrative Agent in its discretion. Grantor agrees to furnish any such information to Administrative Agent promptly upon request.

Section 6.3 **Fixture Filing.** This Deed of Trust shall also constitute a “fixture filing” for the purposes of the UCC against all of the Mortgaged Property which is or is to become fixtures. This Deed of Trust, to be filed for record in the real property records of the County in which the Land is located, shall also be effective as a financing statement covering as-extracted collateral. Information concerning the security interest herein granted may be obtained at the following addresses:

<u>Person</u>	<u>Address</u>
Grantor (debtor)	The address set forth in the first paragraph of this Deed of Trust.
Administrative Agent (secured party)	2 Bethesda Metro Center, Suite 600 Bethesda, Maryland 20814

The record owner of the Land is Ground Lessor. The record owner of the leasehold interest under the Ground Lease is Borrower. The record owner of the leasehold interest under the Master Lease is Master Lessee.

ARTICLE 7 **CONCERNING THE TRUSTEE**

Section 7.1 **Certain Rights.** With the approval of Administrative Agent, Trustee shall have the right to select, employ and consult with counsel. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for actual, reasonable expenses incurred by Trustee in the performance of Trustee’s duties hereunder. Master Lessee shall, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and indemnify, defend and save Trustee harmless against, all liability and reasonable expenses which may be incurred by Trustee in the performance of Trustee’s duties. Grantor’s obligations under this Section 7.1 shall not be reduced or impaired by principles of comparative or contributory negligence.

Section 7.2 **Retention of Money.** All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

Section 7.3 **Successor Trustees.** If Trustee or any successor Trustee shall die, resign or become disqualified from acting in the execution of this trust, or Administrative Agent shall desire to appoint a substitute Trustee, Administrative Agent shall have full power to appoint one or more substitute Trustees and, if preferred, several substitute Trustees in succession who shall succeed to all the estates, rights, powers and duties of Trustee. Such appointment may be executed by any authorized agent of Administrative Agent, and as so executed, such appointment shall be conclusively presumed to be executed with authority, valid and sufficient, without further proof of any action.

Section 7.4 **Perfection of Appointment.** Should any deed, conveyance or instrument of any nature be required from Grantor by any successor Trustee to more fully and certainly vest in and confirm to such successor Trustee such estates, rights, powers and duties, then, upon request by such Trustee, all such deeds, conveyances and instruments shall be made, executed, acknowledged and delivered and shall be caused to be recorded and/or filed by Grantor.

ARTICLE 8

MISCELLANEOUS

Section 8.1 **Limitation on Interest.** The provisions of Section 11.9 (Limitation on Interest) of the Loan Agreement are incorporated herein by reference as though fully set forth herein.

Section 8.2 **Notices.** Any notice required or permitted to be given under this Deed of Trust shall be (a) in writing, (b) sent in the manner set forth in the Loan Agreement, and (c) effective in accordance with the terms of the Loan Agreement.

Section 8.3 **Covenants Running with the Land.** All Obligations contained in this Deed of Trust are intended by Grantor, Administrative Agent and Trustee to be, and shall be construed as, covenants running with the Mortgaged Property. As used herein, "Grantor" shall refer to the parties named in the first paragraph of this Deed of Trust and to any subsequent owner of all or any portion of the Mortgaged Property (without in any way implying that Administrative Agent has or will consent to any such conveyance or transfer of the Mortgaged Property). All Persons who may have or acquire an interest in the Mortgaged Property shall be deemed to have notice of, and be bound by, the terms of the Loan Agreement and the other Loan Documents; however, no such party shall be entitled to any rights thereunder without the prior written consent of Administrative Agent.

Section 8.4 **Attorney-in-Fact.** Grantor hereby irrevocably appoints Administrative Agent and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, (a) to execute and/or record any notices of completion, cessation of labor or any other notices that Administrative Agent deems appropriate to protect Administrative Agent's interest, if Grantor shall fail to do so within ten (10) Business Days after written request by Administrative Agent, (b) upon the issuance of a deed pursuant to the foreclosure of this Deed of Trust or the delivery of a deed in lieu of foreclosure, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases, Rents, Personalty, Fixtures, Plans and Property Agreements in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve Administrative Agent's security interests and rights in or to any of the collateral, and (d) while any Event of Default exists, to perform any obligation of Grantor hereunder; however: (i) neither Administrative Agent nor any other Secured Party shall under any circumstances be obligated to perform any obligation of Grantor; (ii) any sums advanced by Administrative Agent in such performance shall be added to and included in the Indebtedness and shall bear interest at the Default Rate; (iii) Administrative Agent as such attorney-in-fact shall only be accountable for such funds as are actually received by Administrative Agent; and (iv) neither Administrative Agent nor

any other Secured Party shall be liable to Grantor or any other Person for any failure to take any action which Administrative Agent is empowered to take under this Section.

Section 8.5 **Successors and Assigns.** This Deed of Trust shall be binding upon and inure to the benefit of Administrative Agent and Grantor and their respective successors and assigns. Grantor shall not, without the prior written consent of Administrative Agent, assign any rights, duties or obligations hereunder.

Section 8.6 **No Waiver.** Any failure by Trustee or Administrative Agent to insist upon strict performance of any of the terms, provisions or conditions of the Loan Documents shall not be deemed to be a waiver of same, and Trustee or Administrative Agent shall have the right at any time to insist upon strict performance of all of such terms, provisions and conditions.

Section 8.7 **Subrogation.** To the extent proceeds of the Note have been used to extinguish, extend or renew any indebtedness against the Mortgaged Property, then Administrative Agent shall be subrogated to all of the rights, liens and interests existing against the Mortgaged Property and held by the holder of such indebtedness and such former rights, liens and interests, if any, are not waived, but are continued in full force and effect in favor of Administrative Agent.

Section 8.8 **Loan Agreement.** If any conflict or inconsistency exists between this Deed of Trust and the Loan Agreement, the Loan Agreement shall govern.

Section 8.9 **Release or Reconveyance.** Upon payment in full of the Indebtedness and performance in full of the Obligations, Administrative Agent, at Master Lessee's expense, shall release the liens and security interests created by this Deed of Trust or reconvey the Mortgaged Property to Grantor, as applicable.

Section 8.10 **Waiver of Stay, Moratorium and Similar Rights.** Grantor agrees, to the full extent that it may lawfully do so, that it will not at any time insist upon or plead or in any way take advantage of any appraisal, valuation, stay, marshalling of assets, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent or hinder the enforcement of the provisions of this Deed of Trust or the indebtedness secured hereby, or any agreement between Grantor and any Secured Party or any rights or remedies of Administrative Agent.

Section 8.11 **Limitation on Liability; Performance by Borrower and Master Lessee.**

(a) Grantor's liability hereunder is subject to the limitation on liability provisions of Article 12 of the Loan Agreement.

(b) Section 13.1 and Section 13.2(b) of the Loan Agreement are incorporated herein by reference and made a part hereof.

(c) Notwithstanding any other provision herein to the contrary, at any time that LCRA constitutes "Borrower", the obligations, liabilities and any amounts due and owing by Borrower pursuant to the provisions hereof (including, without limitation, any indemnification obligations) shall be nonrecourse as to Borrower. No provision, representation, covenant or agreement

contained in this Deed of Trust, or any obligation herein imposed upon Borrower, or the breach thereof, shall constitute or give rise to or impose upon Borrower a pecuniary liability. No provision hereof shall be construed to impose a charge against the general credit of Borrower or any personal or pecuniary liability upon any commissioner, officer, agent or employee of Borrower. All covenants, obligations and agreements of Borrower contained in this Deed of Trust shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future commissioner, officer, agent or employee of Borrower in other than his or her official capacity, and no official executing this Deed of Trust shall be liable personally for this Deed of Trust or be subject to any personal liability or accountability by reason of the execution and delivery of this Deed of Trust or by reason of the covenants, obligations or agreements of Borrower contained in this Deed of Trust. No provision, covenant or agreement contained in this Deed of Trust, or any obligation herein imposed upon Borrower, or the breach thereof, shall constitute or give rise to or impose upon Borrower a pecuniary liability or a charge. Subject to and without limiting the foregoing non-recourse provisions concerning LCRA, this Section 8.11(c) shall not (i) constitute a waiver, release or impairment of any Indebtedness or any Obligation evidenced or secured by any of the Loan Documents; (ii) impair the right of Administrative Agent or any Lender to name Borrower or Master Lessee as a party defendant in any action or suit for foreclosure and sale under this Deed of Trust; (iii) affect the validity or enforceability of any guaranty made in connection with the Loan or any of the rights and remedies of Administrative Agent or any Lender thereunder; (iv) impair the right of Administrative Agent or any Lender to obtain the appointment of a receiver; (v) impair the enforcement of the Assignment of Leases and Rents; (vi) constitute a prohibition against Administrative Agent or any Lender to commence any appropriate action or proceeding in order for Administrative Agent or any Lender to exercise its remedies against the Project; or (vii) constitute a waiver of the right of Administrative Agent or any Lender to enforce the liability and obligation of Master Lessee or any Borrower (other than LCRA) for amounts owed under Sections 13.1(b)-(d) of the Loan Agreement.

Section 8.12 **Obligations of Grantor, Joint and Several.** If more than one Person has executed this Deed of Trust as “Grantor,” the obligations of all such Persons hereunder shall be joint and several, but subject to the provisions of Section 8.11.

Section 8.13 **Governing Law.** **UNLESS OTHERWISE NOTED THEREIN TO THE CONTRARY, THE LOAN DOCUMENTS AND THE ENVIRONMENTAL INDEMNITY AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES THEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS (WITHOUT GIVING EFFECT TO ILLINOIS’ PRINCIPLES OF CONFLICTS OF LAW) AND APPLICABLE UNITED STATES FEDERAL LAW, EXCEPT FOR THOSE PROVISIONS IN THE LOAN DOCUMENTS AND THE ENVIRONMENTAL INDEMNITY AGREEMENT PERTAINING TO THE CREATION, PERFECTION, PRIORITY OR VALIDITY OF OR EXECUTION ON LIENS OR SECURITY INTERESTS ON PROPERTY (AS DEFINED IN THE LOAN AGREEMENT) LOCATED IN THE STATES WHERE THE PROJECTS (AS DEFINED IN THE LOAN AGREEMENT) ARE LOCATED, WHICH PROVISIONS SHALL BE GOVERNED BY**

AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATES WHERE THE PROJECTS ARE LOCATED AND APPLICABLE UNITED STATES FEDERAL LAW.

Section 8.14 **VENUE**. GRANTOR HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF COOK, STATE OF ILLINOIS AND IRREVOCABLY AGREES THAT, SUBJECT TO ADMINISTRATIVE AGENT'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS DEED OF TRUST OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS (UNLESS BY LAW THE ACTION MUST BE BROUGHT IN THE COUNTY IN WHICH THE LAND IS LOCATED). GRANTOR EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. GRANTOR HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON GRANTOR BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO GRANTOR, AT THE ADDRESS SET FORTH IN THIS DEED OF TRUST AND SERVICE SO MADE SHALL BE DEEMED COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED.

Section 8.15 **Headings**. The Article, Section and Subsection titles hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Sections or Subsections.

Section 8.16 **Entire Agreement**. This Deed of Trust and the other Loan Documents and the Environmental Indemnity Agreement embody the entire agreement and understanding between Administrative Agent and Grantor and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Loan Documents and the Environmental Indemnity Agreement may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties. Notwithstanding anything in this Section to the contrary, Borrower is not a party to the Environmental Indemnity Agreement, has no obligations or liability under the Environmental Indemnity Agreement and any representations or agreements relating to the Environmental Indemnity Agreement contained in this Deed of Trust are made by Master Lessee only.

Section 8.17 **Counterparts**. This Deed of Trust may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document.

Section 8.18 **No Oral Change**. This Deed of Trust, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Grantor or Administrative Agent, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 8.19 **Inapplicable Provisions.** If any term, covenant or condition of this Deed of Trust is held to be invalid, illegal or unenforceable in any respect, this Deed of Trust shall be construed without such provision.

Section 8.20 **Exhibits; Recitals.** The information set forth on the cover and recitals hereof, and the Exhibits attached hereto, are hereby incorporated herein as a part of this Deed of Trust with the same effect as if set forth in the body hereof.

Section 8.21 **Variable Rate Interest.** Grantor and, by its acceptance hereof, Administrative Agent, acknowledge and agree that the rate of interest charged on the principal amount of the Loan may vary from time to time as more particularly set forth in the Note, the Loan Agreement and the other Loan Documents.

ARTICLE 9

GROUND LEASE PROVISIONS

Section 9.1 **No Merger.** In the event of the acquisition by Grantor at any time of the fee estate or any part of the fee estate in the Land, there shall be no merger of such fee estate with the ground leasehold estate created and existing by virtue of the Ground Lease, and the Ground Lease shall remain in full force and effect in accordance with its terms as separate and distinct estates in the Mortgaged Property (unless all Persons, including Administrative Agent, having an interest in the Ground Lease after such acquisition shall consent thereto in writing), but the lien of this Deed of Trust shall extend and attach to, and shall constitute an encumbrance upon, the fee simple estate in such Mortgaged Property so acquired by Grantor, and at Administrative Agent's request, Grantor shall execute a supplemental deed of trust, in form and substance satisfactory to Administrative Agent evidencing the lien on such fee simple estate and, at the reasonable request of Administrative Agent, Grantor shall supply Administrative Agent with a survey, appraisal, and a loan policy of title insurance covering any such fee simple estate.

Section 9.2 **Representations and Covenants.** With respect to the Ground Lease, Borrower hereby warrants, represents, covenants and agrees that:

(a) There is no default by Borrower under the Ground Lease. To the best of Borrower's knowledge, there is no default on the part of the Ground Lessor under the Ground Lease. The Ground Lease is in full force and effect. Borrower has paid all sums payable and Borrower has performed all obligations required to be performed by Borrower thereunder except as set forth in the Recognition Agreement delivered to Administrative Agent in connection with the closing of the Loan.

(b) Borrower will; subject, however, to Master Lessee's obligations under the Master Lease to perform Borrower's obligations as "lessee" under the Ground Lease, (a) pay on or before the due dates thereof all rents and other amounts payable under the Ground Lease; (b) timely and fully observe and perform all of the terms, covenants, agreements and conditions of the Ground Lease required to be observed and performed by Borrower; (c) deliver to Administrative Agent a copy of any notice of default sent by Borrower under the Ground Lease within ten (10) Business Days after sending such notice; and (d) deliver to Administrative Agent a copy of any notice of

default received by Borrower under the Ground Lease within five (5) Business Days of receipt thereof.

(c) For purposes of determining whether a default under the Ground Lease exists, Administrative Agent shall be entitled to rely on, and accept as correct, any notice of default delivered by Ground Lessor. In the event that Borrower (or Master Lessee on behalf of Borrower) fails to promptly cure any default under the Ground Lease, or fails to cure any default within three (3) Business Days prior to the expiration of any cure period, if there is a cure period under the Ground Lease, Administrative Agent shall have the right (but shall not be obligated) to take any action to prevent or to cure any such default under the Ground Lease, and any sums of money advanced by Administrative Agent to cure any such default shall become part of the Indebtedness, shall bear interest at the Default Rate until repaid by Borrower, and shall be repayable by Borrower to Administrative Agent within ten (10) Business Days after receipt of written demand. Notwithstanding anything in this Deed of Trust to the contrary, Master Lessee is obligated under the Master Lease to perform Borrower's obligations as "lessee" under the Ground Lease.

(d) Borrower will not, whether or not in accordance with the Ground Lease, do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, will terminate or impair the security for this Deed of Trust, or will be grounds for terminating the Ground Lease prior to its stated termination date (including voluntarily terminating the Ground Lease) or declaring a default thereunder or a forfeiture thereof, without first obtaining the prior written consent of Administrative Agent. Notwithstanding the foregoing, LCRA may transfer its interest in the Ground Lease to Master Lessee in connection with the exercise of a LCRA Termination Right without the prior written consent of Administrative Agent.

(e) If Administrative Agent elects, pursuant to the terms of the Loan Documents, to make any payments or do any act or thing required to be paid or done by Borrower, Administrative Agent shall, in addition to all other remedies of Administrative Agent herein, be fully subrogated to any and all rights of the party to whom such payment is made or for which such performance is made.

(f) Borrower will not surrender any of its rights, title or interest under the Ground Lease, nor terminate or cancel the Ground Lease prior to its stated termination date (whether voluntarily or otherwise) and Borrower will not, without the express written consent of Administrative Agent, modify, change, supplement, alter or amend the Ground Lease, either orally or in writing, or enter into any agreement modifying, supplementing or amending the Ground Lease. No surrender, termination, cancellation, modification, supplement or amendment of the Ground Lease shall be effective or binding against Administrative Agent unless Administrative Agent has consented thereto in writing. Notwithstanding the foregoing, LCRA may transfer its interest in the Ground Lease to Master Lessee in connection with the exercise of a LCRA Termination Right without the prior written consent of Administrative Agent.

(g) Borrower hereby assigns to Administrative Agent all of its rights, privileges and prerogatives under the Ground Lease to terminate, cancel, renew, extend, modify, change, supplement, alter or amend the Ground Lease (other than the right of LCRA to transfer its interest in the Ground Lease to Master Lessee in accordance with a LCRA Termination Right), and any

such termination, cancellation, renewal, extension, modification, change, supplement, alteration or amendment of the Ground Lease without the prior written consent of Administrative Agent (other than in connection with the exercise of a LCRA Termination Right) shall be void and of no force and effect; provided, however, Administrative Agent agrees that (i) it will not exercise such rights except during the continuance of an Event of Default and (ii) in no event shall Administrative Agent's exercise of such rights (A) increase the obligations or liability of LCRA under the Ground Lease or limit or impair LCRA's rights or remedies under the Master Lease in connection with the implementation or termination of tax incentives conferred by LCRA under the Master Lease and the LCRA Documents.

(h) No release or forbearance of any obligations of Borrower under the Ground Lease, pursuant to the Ground Lease or otherwise, shall release Borrower from any of its obligations under the Loan Documents; provided, however, upon transfer by LCRA of its interest in the Ground Lease to Master Lessee in connection with the exercise of a LCRA Termination Right, LCRA shall be contemporaneously released from its obligations under the Loan Documents. Any such release of LCRA will constitute a simultaneous release by LCRA of any Liabilities against an Indemnified Person (but not Master Lessee or a Related Person of Master Lessee), without the need for an additional agreement in writing.

(i) Except as otherwise contemplated in Section 4.2 of the Loan Agreement or in connection with the exercise of a LCRA Termination Right, Borrower shall not sublease or assign any of its rights under the Ground Lease, without the prior written consent of Administrative Agent. Borrower shall not subordinate the Ground Lease or its leasehold estate to any mortgage, deed of trust or other encumbrance of, or lien on, the fee interest of any owner of the Mortgaged Property. Any such attempted subordination shall be void and of no force or effect.

(j) Borrower will not waive, excuse, condone or in any way release or discharge Ground Lessor of or from the obligations, covenants and agreements by Ground Lessor to be done and performed under or in relation to the Ground Lease. Borrower, at Borrower's expense, will use commercially reasonable efforts to enforce the performance by Ground Lessor of Ground Lessor's obligations under or related to the Ground Lease; provided, however, during the existence of the Master Lease, Master Lessee, at Master Lessee's expense, will perform the obligations of Borrower under this Section 9.2(j) and Borrower agrees to assist Master Lessee in the enforcement of the Ground Lessor's performance under the Ground Lease, as reasonably requested by Master Lessee and at Master Lessee's expense.

(k) All subleases entered into by Borrower with respect to all or any portion of the Mortgaged Property (and all existing subleases modified or amended by Borrower) after the date hereof shall provide that if Administrative Agent forecloses under this or any other mortgage, deed of trust or deed to secure debt encumbering the property or enters into a new lease with Ground Lessor pursuant to the provisions for a new lease contained in the Ground Lease or any agreement between Ground Lessor and Administrative Agent related thereto, the subtenant shall attorn to Administrative Agent or its assignee and the sublease shall remain in full force and effect in accordance with its terms notwithstanding the termination of the Ground Lease.

(l) Borrower hereby assigns to Administrative Agent a security interest in any and all prepaid rents and security deposits and all other security which Ground Lessor now or hereafter holds for the performance of Borrower's obligations thereunder.

(m) Promptly upon demand by Administrative Agent, Borrower shall use reasonable efforts, at Master Lessee's expense, to obtain from Ground Lessor and furnish to Administrative Agent an estoppel certificate stating the date through which rent has been paid, whether or not there are any defaults under the Ground Lease, the specific nature of any claimed defaults, and such other matters as may be reasonably requested by Administrative Agent.

(n) Borrower shall notify Administrative Agent promptly in writing of any request made by either party to the Ground Lease for arbitration or appraisal proceedings relating to the Ground Lease and of the institution of any such arbitration or appraisal proceeding, as well as of all proceedings thereunder, and shall promptly deliver to Administrative Agent a copy of the determination of the arbitrators in any such proceeding. Administrative Agent shall have the right (but not the obligation), following delivery of written notice to Borrower, to participate in the appointment of any arbitrator or appraiser to be appointed by Borrower and (to the extent permitted under the Ground Lease) to participate in such arbitration or appraisal proceedings in association with Borrower or on its own behalf as an interested party. Borrower shall notify Administrative Agent of any legal proceedings involving obligations under the Ground Lease, and Administrative Agent may intervene in any such legal proceeding and be made a party. Borrower shall promptly provide Administrative Agent with a copy of any decision rendered in any such proceeding.

(o) Without the prior written consent of Administrative Agent, Borrower will not exercise any purchase option under the Ground Lease, which consent will not be unreasonably withheld and if granted shall be subject to such terms and conditions as may reasonably be imposed by Administrative Agent.

Section 9.3 **Bankruptcy Provisions.** With respect to the Ground Lease, Borrower, to the fullest extent permitted by applicable law, hereby warrants, represents, covenants, and agrees that:

(a) To the fullest extent permitted by applicable law, the lien of this Deed of Trust hereby attaches to any and all of Borrower's rights, interests, and remedies arising now or hereafter under or pursuant to Section 365(h) of the Federal Bankruptcy Code, including, without limitation, all of Borrower's rights to remain in possession of the Mortgaged Property.

(b) Borrower shall not, without first obtaining Administrative Agent's written consent, elect to terminate the Ground Lease under Section 365(a) or 365(d) of the Federal Bankruptcy Code or elect to treat the Ground Lease as terminated under Section 365(h)(1) of the Federal Bankruptcy Code, or any other similar provision of law. Any such election made without first obtaining Administrative Agent's prior written consent shall be void.

(c) Borrower hereby unconditionally assigns, transfers and sets over to Administrative Agent as additional security for the Indebtedness all of Borrower's claims and rights to the payment of damages arising from any rejection by Ground Lessor under the Federal Bankruptcy

Code. Administrative Agent shall have the right to proceed in its own name or in the name of Grantor in respect of any claim, suit, action or proceeding relating to the rejection of the Ground Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case relating to Ground Lessor under the Federal Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Indebtedness is satisfied and discharged in full. Any amount received by Administrative Agent as damages arising out of rejection or out of exercising or enforcing its rights or remedies under this Section shall be applied first to all costs and expenses of Administrative Agent (including, without limitation, reasonable attorneys' fees) and then applied to the payment of the Indebtedness in such order and manner as Administrative Agent, in its sole discretion, may elect.

(d) If any action, proceeding, motion or notice is commenced or filed with respect to Ground Lessor or the Mortgaged Property in connection with any case under the Federal Bankruptcy Code, Administrative Agent shall have the option, to the exclusion of Borrower, exercisable upon written notice from Administrative Agent to Borrower, to conduct and control any such litigation with counsel of Administrative Agent's choice. Administrative Agent may proceed in its own name or in the name of Grantor in connection with any such litigation, and Borrower agrees to execute any and all powers, authorizations, consents or other documents required by Administrative Agent in connection therewith. Any expenditures or payments made or incurred by Administrative Agent in connection with the prosecution or conduct of such litigation shall be secured by the lien of this Deed of Trust, shall bear interest at the Default Rate from the date of such advance, and shall, at the option of Administrative Agent, be repayable immediately upon demand. In any such litigation, Borrower shall not seek to offset any damages caused by a lack of performance by Ground Lessor against the rent payable under the Ground Lease without the prior written consent of Administrative Agent, which consent shall not be unreasonably withheld.

(e) If pursuant to subsection 365(h)(1)(B) of the Federal Bankruptcy Code, Borrower shall seek to offset against the rent reserved in the Ground Lease the amount of any damages caused by the nonperformance by Ground Lessor under the Ground Lease of any of Ground Lessor's obligations under the Ground Lease after the rejection by Ground Lessor of the Ground Lease under the Federal Bankruptcy Code, Borrower shall, prior to effecting such offset, notify Administrative Agent of its intent so to do, setting forth the amounts proposed to be so offset and the basis therefor. Administrative Agent shall have the right to object to all or any part of such offset, and, in the event of such objection, Borrower shall not effect any offset of the amounts so objected to by Administrative Agent. If Administrative Agent shall have failed to object as aforesaid within ten (10) Business Days after notice from Borrower in accordance with the first sentence of this paragraph, Borrower may proceed to effect such offset in the amounts set forth in Borrower's notice. Neither Administrative Agent's failure to object as aforesaid nor any objection or other communication between Administrative Agent and Borrower relating to such offset shall constitute an approval of any such offset by Administrative Agent. Master Lessee shall pay and protect Administrative Agent, and indemnify and save Administrative Agent harmless from and against any and all claims, demands, actions, suits, proceedings, damages, losses, costs and

expenses of every nature whatsoever (including, without limitation, attorneys' fees) arising from or relating to any offset by Borrower against the rent reserved in the Ground Lease.

(f) Borrower shall not commence any action, suit, proceeding or case, or file any application or make any motion, with respect to the Ground Lease in any such case under the Federal Bankruptcy Code without first obtaining the prior written consent of Administrative Agent, which consent shall not be unreasonably withheld.

(g) Borrower shall promptly after obtaining actual knowledge thereof give written notice of any filing by or against Ground Lessor of a petition under the Federal Bankruptcy Code to Administrative Agent, setting forth any information available to Borrower as to the date of such filing, the court in which such petition was filed, and the relief sought therein. Borrower shall promptly deliver to Administrative Agent any and all notices, summonses, pleadings, applications and other documents received by Borrower in connection with any such petition and proceedings relating thereto.

(h) If there is filed by or against Borrower a petition under the Federal Bankruptcy Code, and Borrower shall determine to reject the Ground Lease pursuant to Section 365(a) of the Federal Bankruptcy Code, Borrower shall give Administrative Agent prior written notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject the Ground Lease. Such date of application by Borrower shall not be less than ten (10) Business Days from the date of filing of the petition. Administrative Agent shall have the right, but not the obligation, to serve upon Borrower, within ten (10) Business Days after receipt of notice from Borrower, a written notice stating that Administrative Agent demands that Borrower assume and assign the Ground Lease to Administrative Agent pursuant to Section 365 of the Federal Bankruptcy Code, that Administrative Agent covenants to cure or provide adequate assurance of prompt cure of all defaults and provide adequate assurance of future performance under the Ground Lease. If Administrative Agent serves upon Borrower such written notice, Borrower shall not seek to reject the Ground Lease and shall comply with Administrative Agent's demand within thirty (30) days after such written notice has been given subject to the performance by Administrative Agent of Administrative Agent's covenant to cure or provide adequate assurance.

Effective upon the entry of any order for relief with respect to Borrower under the Federal Bankruptcy Code, Borrower hereby assigns and transfers to Administrative Agent a non-exclusive right to apply to the bankruptcy court for an order extending the period during which the Ground Lease may be rejected or assumed.

ARTICLE 10

MASTER LEASE PROVISIONS

Section 10.1 Master Lease.

(a) The estate created by the Master Lease is subject and subordinate in all respects to the lien and terms and conditions of the Loan Documents, as the same may be amended, modified, extended, renewed or increased. If the interest of Borrower or Master Lessee in the Mortgaged Property is transferred by reason of foreclosure or other proceedings, or by deed in lieu of

foreclosure, or any other manner (including the exercise of a LCRA Termination right) or if Borrower or Master Lessee loses possession of the Mortgaged Property through the exercise by Administrative Agent of its remedies, the Master Lease shall automatically terminate. The termination of the Master Lease pursuant to any provision of this Article 10 will have no impact upon the obligations of Master Lessee under the Loan Documents to which Master Lessee is a party.

(b) Borrower agrees that notwithstanding anything to the contrary contained in the Master Lease, any security interest granted to Borrower by Master Lessee pursuant to the Master Lease, either express or implied, is subject and subordinate in all respects to the lien, assignments and security interests granted to Administrative Agent under this Security Instrument, as the same may be amended, modified or extended from time to time.

Section 10.2 **Representations and Covenants.** With respect to the Master Lease, Master Lessee hereby warrants, represents, covenants and agrees that:

(a) There is no default by Master Lessee under the Master Lease. To the best of Master Lessee's knowledge, there is no default on the part of the Borrower under the Master Lease. The Master Lease is in full force and effect. Master Lessee has paid all sums payable and Master Lessee has performed all obligations required to be performed by Master Lessee thereunder through the date hereof, including its obligations under the Master Lease to perform Borrower's obligations as "lessee" under the Ground Lease.

(b) Master Lessee will (a) pay on or before the due dates thereof all rents and other amounts payable under the Master Lease; (b) timely and fully observe and perform all of the terms, covenants, agreements and conditions of the Master Lease required to be observed and performed by Master Lessee; and (c) deliver to Administrative Agent a copy of any notice of default sent or received by Master Lessee under the Master Lease within ten (10) days after sending or receiving such notice.

(c) For purposes of determining whether a default under the Master Lease exists, Administrative Agent shall be entitled to rely on, and accept as correct, any notice of default delivered by Ground Lessor or Borrower. In the event that Master Lessee fails to promptly cure any default under the Master Lease, or fails to cure any default within five (5) days prior to the expiration of any cure period, if there is a cure period under the Master Lease, Administrative Agent shall have the right (but shall not be obligated) to take any action to prevent or to cure any such default by Master Lessee under the Master Lease, and any sums of money advanced by Administrative Agent to cure any such default shall become part of the Indebtedness, shall bear interest at the Default Rate until repaid by Master Lessee, and shall be repayable by Master Lessee to Administrative Agent within ten (10) days after receipt of written demand.

(d) Master Lessee will not, whether or not in accordance with the Master Lease, do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, will terminate or impair the security for this Deed of Trust, or will be grounds for terminating the Master Lease prior to its stated termination date (including voluntarily terminating the Master Lease except in connection with the exercise of a LCRA Termination Right) or

declaring a default thereunder or a forfeiture thereof, without first obtaining the prior written consent of Administrative Agent.

(e) If Administrative Agent elects, pursuant to the terms of the Loan Documents, to make any payments or do any act or thing required to be paid or done by Master Lessee, Administrative Agent shall, in addition to all other remedies of Administrative Agent herein, be fully subrogated to any and all rights of the party to whom such payment is made or for which such performance is made.

(f) Master Lessee will not surrender any of its rights, title or interest under the Master Lease, nor terminate or cancel the Master Lease prior to its stated termination date (whether voluntarily or otherwise except in connection with the exercise of a LCRA Termination Right) and Master Lessee will not, without the express written consent of Administrative Agent, modify, change, supplement, alter or amend the Master Lease, either orally or in writing, or enter into any agreement modifying, supplementing or amending the Master Lease. Except in connection with the exercise of a LCRA Termination Right, no surrender, termination, cancellation, modification, supplement or amendment of the Master Lease shall be effective or binding against Administrative Agent unless Administrative Agent has consented thereto in writing.

(g) Master Lessee hereby assigns to Administrative Agent all of its rights, privileges and prerogatives under the Master Lease to terminate, cancel, renew, extend, modify, change, supplement, alter or amend the Master Lease, and any such termination, cancellation, renewal, extension, modification, change, supplement, alteration or amendment of the Master Lease without the prior written consent of Administrative Agent, shall be void and of no force and effect; provided, however, Administrative Agent agrees that (i) it will not exercise such rights except during the continuance of an Event of Default and (ii) in no event shall Administrative agent's exercise of such rights (A) increase the obligations or liability of LCRA under the Master Lease (including, without limitation, extension of the term of the Master Lease) or limit or impair LCRA's rights or remedies under the Master Lease in connection with the implementation or termination of tax incentives conferred by LCRA under the Master Lease and the LCRA Documents.

(h) No release or forbearance of any obligations of Master Lessee under the Master Lease, pursuant to the Master Lease or otherwise, shall release Master Lessee from any of its obligations under the Loan Documents.

(i) Except as otherwise contemplated in Section 4.2 of the Loan Agreement, Master Lessee shall not sublease or assign any of its rights under the Master Lease, without the prior written consent of Administrative Agent. Master Lessee shall not subordinate the Master Lease or its leasehold estate to any mortgage, deed of trust or other encumbrance of, or lien on, the fee interest of any owner of the Mortgaged Property. Any such attempted subordination shall be void and of no force or effect.

(j) Master Lessee will not waive, excuse, condone or in any way release or discharge Borrower of or from the obligations, covenants and agreements by Borrower to be done and performed under or in relation to the Master Lease, except in connection with the exercise of a

LCRA Termination Right. Master Lessee, at Master Lessee's expense, will enforce the performance by Borrower of Borrower's obligations under or related to the Master Lease.

(k) All subleases entered into by Master Lessee with respect to all or any portion of the Mortgaged Property (and all existing subleases modified or amended by Master Lessee) after the date hereof shall provide that if Administrative Agent forecloses under this or any other mortgage or deed of trust encumbering the property or enters into a new lease with Borrower pursuant to the provisions for a new lease contained in the Master Lease or any agreement between Borrower and Administrative Agent related thereto, the subtenant shall attorn to Administrative Agent or its assignee and the sublease shall remain in full force and effect in accordance with its terms notwithstanding the termination of the Master Lease.

(l) Master Lessee hereby assigns to Administrative Agent a security interest in any and all prepaid rents and security deposits and all other security which Borrower now or hereafter holds for the performance of Master Lessee's obligations thereunder.

(m) Master Lessee shall notify Administrative Agent promptly in writing of any request made by either party to the Master Lease for arbitration or appraisal proceedings relating to the Master Lease and of the institution of any such arbitration or appraisal proceeding, as well as of all proceedings thereunder, and shall promptly deliver to Administrative Agent a copy of the determination of the arbitrators in any such proceeding. Administrative Agent shall have the right (but not the obligation), following delivery of written notice to Master Lessee, to participate in the appointment of any arbitrator or appraiser to be appointed by Master Lessee and (to the extent permitted under the Master Lease) to participate in such arbitration or appraisal proceedings in association with Master Lessee or on its own behalf as an interested party. Master Lessee shall notify Administrative Agent of any legal proceedings involving obligations under the Master Lease, and Administrative Agent may intervene in any such legal proceeding and be made a party. Master Lessee shall promptly provide Administrative Agent with a copy of any decision rendered in any such proceeding.

(n) Without the prior written consent of Administrative Agent, Master Lessee will not exercise any purchase option under the Master Lease, which consent will not be unreasonably withheld and if granted shall be subject to such terms and conditions as may reasonably be imposed by Administrative Agent.

Section 10.3 **Bankruptcy Provisions.** With respect to the Master Lease, Master Lessee, to the fullest extent permitted by applicable law, hereby warrants, represents, covenants, and agrees that:

(a) The lien of this Deed of Trust hereby attaches to any and all of Master Lessee's rights, interests, and remedies arising now or hereafter under or pursuant to Section 365(h) of the Federal Bankruptcy Code, including, without limitation, all of Master Lessee's rights to remain in possession of the Mortgaged Property.

(b) Master Lessee shall not, without first obtaining Administrative Agent's written consent, elect to terminate the Master Lease under Section 365(a) or 365(d) of the Federal

Bankruptcy Code or elect to treat the Master Lease as terminated under Section 365(h)(1) of the Federal Bankruptcy Code, or any other similar provision of law. Any such election made without first obtaining Administrative Agent's prior written consent shall be void.

(c) Master Lessee hereby unconditionally assigns, transfers and sets over to Administrative Agent as additional security for the Indebtedness all of Master Lessee's claims and rights to the payment of damages arising from any rejection by Borrower under the Federal Bankruptcy Code. Administrative Agent shall have the right to proceed in its own name or in the name of Master Lessee in respect of any claim, suit, action or proceeding relating to the rejection of the Master Lease, including, without limitation, the right to file and prosecute, to the exclusion of Master Lessee, any proofs of claim, complaints, motions, applications, notices and other documents, in any case relating to Borrower under the Federal Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Indebtedness is satisfied and discharged in full. Any amount received by Administrative Agent as damages arising out of rejection or out of exercising or enforcing its rights or remedies under this Section shall be applied first to all costs and expenses of Administrative Agent (including, without limitation, reasonable attorneys' fees) and then applied to the payment of the Indebtedness in such order and manner as Administrative Agent, in its sole discretion, may elect.

(d) If any action, proceeding, motion or notice is commenced or filed with respect to Borrower or the Mortgaged Property in connection with any case under the Federal Bankruptcy Code, Administrative Agent shall have the option, to the exclusion of Master Lessee, exercisable upon written notice from Administrative Agent to Master Lessee, to conduct and control any such litigation with counsel of Administrative Agent's choice. Administrative Agent may proceed in its own name or in the name of Master Lessee in connection with any such litigation, and Master Lessee agrees to execute any and all powers, authorizations, consents or other documents required by Administrative Agent in connection therewith. Any expenditures or payments made or incurred by Administrative Agent in connection with the prosecution or conduct of such litigation shall be secured by the lien of this Deed of Trust, shall bear interest at the Default Rate from the date of such advance, and shall, at the option of Administrative Agent, be repayable immediately upon demand. In any such litigation, Master Lessee shall not seek to offset any damages caused by a lack of performance by Borrower against the rent payable under the Master Lease without the prior written consent of Administrative Agent, which consent shall not be unreasonably withheld.

(e) If pursuant to subsection 365(h)(1)(B) of the Federal Bankruptcy Code, Master Lessee shall seek to offset against the rent reserved in the Master Lease the amount of any damages caused by the nonperformance by Borrower under the Master Lease of any of Borrower's obligations under the Master Lease after the rejection by Borrower of the Master Lease under the Federal Bankruptcy Code, Master Lessee shall, prior to effecting such offset, notify Administrative Agent of its intent so to do, setting forth the amounts proposed to be so offset and the basis therefor. Administrative Agent shall have the right to object to all or any part of such offset, and, in the event of such objection, Master Lessee shall not effect any offset of the amounts so objected to by Administrative Agent. If Administrative Agent shall have failed to object as aforesaid within ten (10) Business Days after notice from Master Lessee in accordance with the first sentence of this paragraph, Master Lessee may proceed to effect such offset in the amounts set forth in Master

Lessee's notice. Neither Administrative Agent's failure to object as aforesaid nor any objection or other communication between Administrative Agent and Master Lessee relating to such offset shall constitute an approval of any such offset by Administrative Agent. Master Lessee shall pay and protect Administrative Agent, and indemnify and save Administrative Agent harmless from and against any and all claims, demands, actions, suits, proceedings, damages, losses, costs and expenses of every nature whatsoever (including, without limitation, attorneys' fees) arising from or relating to any offset by Master Lessee against the rent reserved in the Master Lease.

(f) Master Lessee shall not commence any action, suit, proceeding or case, or file any application or make any motion, with respect to the Master Lease in any such case under the Federal Bankruptcy Code without first obtaining the prior written consent of Administrative Agent, which consent shall not be unreasonably withheld.

(g) Master Lessee shall promptly after obtaining actual knowledge thereof give written notice of any filing by or against Borrower of a petition under the Federal Bankruptcy Code to Administrative Agent, setting forth any information available to Master Lessee as to the date of such filing, the court in which such petition was filed, and the relief sought therein. Master Lessee shall promptly deliver to Administrative Agent any and all notices, summonses, pleadings, applications and other documents received by Master Lessee in connection with any such petition and proceedings relating thereto.

(h) If there is filed by or against Master Lessee a petition under the Federal Bankruptcy Code, and Master Lessee shall determine to reject the Master Lease pursuant to Section 365(a) of the Federal Bankruptcy Code, Master Lessee shall give Administrative Agent prior written notice of the date on which Master Lessee shall apply to the bankruptcy court for authority to reject the Master Lease. Such date of application by Master Lessee shall not be less than ten (10) Business Days from the date of filing of the petition. Administrative Agent shall have the right, but not the obligation, to serve upon Master Lessee, within ten (10) Business Days after receipt of notice from Master Lessee, a written notice stating that Administrative Agent demands that Master Lessee assume and assign the Master Lease to Administrative Agent pursuant to Section 365 of the Federal Bankruptcy Code, that Administrative Agent covenants to cure or provide adequate assurance of prompt cure of all defaults and provide adequate assurance of future performance under the Master Lease. If Administrative Agent serves upon Master Lessee such written notice, Master Lessee shall not seek to reject the Master Lease and shall comply with Administrative Agent's demand within thirty (30) days after such written notice has been given subject to the performance by Administrative Agent of Administrative Agent's covenant to cure or provide adequate assurance.

(i) Effective upon the entry of any order for relief with respect to Master Lessee under the Federal Bankruptcy Code, Master Lessee hereby assigns and transfers to Administrative Agent a non-exclusive right to apply to the bankruptcy court for an order extending the period during which the Master Lease may be rejected or assumed.

ARTICLE 11

SPECIAL STATE PROVISIONS

Section 11.1 **Conflicting Provisions.** To the extent of any conflict between the provisions of this Article 11 and the other provisions of this Deed of Trust, the provisions of this Article 11 shall control.

Section 11.2 **Administrative Agent's Power of Enforcement.** At any time during which an Event of Default exists, the whole of the Obligations and the Indebtedness will become due at Administrative Agent's option immediately or at any time thereafter at the continuing option of Administrative Agent, and this Deed of Trust will remain in force, and Administrative Agent may exercise any right, power or remedy permitted to it by law or by contract, and in particular, without limiting the generality of the foregoing, Administrative Agent will have the absolute right, at its option, to pursue one or more of the following remedies:

(a) Administrative Agent will be entitled, immediately or thereafter, without notice or demand, to the extent permitted by the laws of the State of Missouri, (i) to institute suit to enforce the rights of Administrative Agent and (ii) to enforce, at Administrative Agent's continuing option, payment of all Indebtedness and Obligations by action to foreclose this Deed of Trust, either or both, concurrently or otherwise; and one action or suit will not abate or be a bar to or waiver of Administrative Agent's right to institute or maintain the other, provided that Administrative Agent will have only one payment and satisfaction of the Indebtedness and Obligations.

(b) Administrative Agent will have the right from time to time to take action to recover any sums, whether interest, principal or any installment of either, or any other sums required to be paid under the Loan Documents, as the same become due, without regard to whether or not the principal sum secured or any other secured obligations will be due, and without prejudice to the right of Administrative Agent thereafter to bring an action of foreclosure, or any other action, or commence foreclosure proceedings under the power of sale, for a default or Event of Default existing at the time such earlier action was commenced.

(c) The Trustee may proceed to sell all or any part of the Mortgaged Property, at public venue, to the highest bidder, at the customary place in the county in which the Mortgaged Property is located, for cash, first giving the public notice required by law of the time, terms and place of sale, and of the property to be sold; and upon such sale will execute and deliver a deed of conveyance of the property sold to the purchaser or purchasers of the property, and any statement or recital of fact in such deed in relation to the nonpayment of Indebtedness hereby secured, existence of the Indebtedness so secured, notice of advertisement, sale, receipt of money, and the happening of any of the events by which any successor trustee became successor as herein provided, will be prima facie evidence of the truth of such statement or recital; and the Trustee will receive the proceeds of such sale, and the Trustee covenants faithfully to perform the trust herein created. The Trustee hereby lets the Mortgaged Property to Grantor until a sale be had under the foregoing provisions therefor or until a default or defaults in any of the terms, covenants and conditions of this Deed of Trust or of the Note secured hereby, upon the following terms and conditions, to-wit: Grantor and every and all Persons claiming or possessing the Mortgaged Property or any part thereof by, through or under Grantor shall pay rent therefor during said term

at the rate of one cent (1 cent) per month, payable monthly upon demand, and shall surrender immediate peaceable possession of the Mortgaged Property and any and every part thereof sold under said provisions to the purchaser thereof under such sale, without notice or demand therefor, and shall and will at once, without notice, surrender up possession of the Mortgaged Property and every part thereof in the event Administrative Agent shall take charge and enter as provided in this Deed of Trust.

(d) Any court of competent jurisdiction may, at any time or times, either before or after a foreclosure sale, without notice and without requiring bond, without regard to the solvency or insolvency of any Person liable for payment of the Indebtedness and Obligations, and without regard to whether Administrative Agent has exercised or is exercising any other available remedy, appoint, as a matter of strict right and as an admitted equity, a receiver for the benefit of Administrative Agent, with power to collect the Rents, issues, and profits of the Mortgaged Property, due and to become due. These provisions for the appointment of a receiver and assignment of Rents are an express condition upon which the Loan to Borrower and the financial accommodations to Borrower have been made. The receiver, out of such Rents, issues, and profits when collected, may pay all reasonable attorneys' fees and expenses; may pay all costs and operating expenses incurred in the management and operation of the Mortgaged Property; may pay and secure the release of prior or subordinate liens, if any; may pay taxes, assessments, water and other utility charges, and insurance premiums, then due or thereafter accruing; may make and pay for any repairs to the Mortgaged Property deemed advisable to Administrative Agent; and may pay all or any part of the Indebtedness and Obligations then due and payable, or other sums secured hereby or any deficiency decree entered in any foreclosure proceedings or otherwise as Administrative Agent may direct, all in such order of application as Administrative Agent may direct.

(e) Administrative Agent will have all the rights and remedies of a secured party under the UCC and any other applicable laws. Administrative Agent 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 Administrative Agent, including the sending of notices and the conduct of the sale, but in the name and on behalf of Administrative Agent. Further, Administrative Agent may proceed as set forth in Section 9-604 (or other applicable Section) of the UCC which provides that if a security agreement covers both real and personal property, as is the case herein, Administrative Agent may proceed against only the personal property or proceed against both the real and personal property in accordance with the rights and remedies in respect of the real property, in which case the provisions of the UCC do not apply. Administrative Agent is hereby authorized to direct the Trustee to foreclose the personal property in accordance with the real property rights and remedies as set forth herein.

(f) Administrative Agent may exercise any and all other remedies available at law or in equity.

Section 11.3 **Substitute Trustee**. Administrative Agent, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county (or, in the case of the city of St. Louis, the Recorder of Deeds for such city) in which this Deed of Trust is recorded. Without conveyance of the Mortgaged

Property, the successor trustee will succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

Section 11.4 **Mo. Rev. Stat. § 427.120 Notice.** Pursuant to Mo. Rev. Stat. § 427.120, Grantor acknowledges receipt of the following notice: “**UNLESS YOU (GRANTOR) PROVIDE EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY YOUR AGREEMENT WITH US (ADMINISTRATIVE AGENT), WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTERESTS IN YOUR COLLATERAL (INCLUDING, WITHOUT LIMITATION, THE MORTGAGED PROPERTY). THIS INSURANCE MAY, BUT NEED NOT, PROTECT YOUR INTERESTS. THE COVERAGE THAT WE PURCHASE MAY NOT PAY ANY CLAIM THAT YOU MAKE OR ANY CLAIM THAT IS MADE AGAINST YOU IN CONNECTION WITH THE COLLATERAL (INCLUDING, WITHOUT LIMITATION, THE MORTGAGED PROPERTY). YOU MAY LATER CANCEL ANY INSURANCE PURCHASED BY US, BUT ONLY AFTER PROVIDING EVIDENCE THAT YOU HAVE OBTAINED INSURANCE AS REQUIRED BY OUR AGREEMENT (INCLUDING, WITHOUT LIMITATION, OUR LOAN AGREEMENT). IF WE PURCHASE INSURANCE FOR THE COLLATERAL (INCLUDING, WITHOUT LIMITATION, THE MORTGAGED PROPERTY), YOU WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING THE INSURANCE PREMIUM, INTEREST AND ANY OTHER CHARGES WE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO YOUR TOTAL OUTSTANDING BALANCE OR OBLIGATION (THE INDEBTEDNESS). THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE YOU MAY BE ABLE TO OBTAIN ON YOUR OWN.**”

Section 11.5 **Applicable Law.** The proceeds of the Note secured by this Deed of Trust will be used for the purposes specified in Section 408.035 RSMo. and the Indebtedness secured hereby constitutes both a business loan and a real estate loan which comes within the purview of Section 408.035 RSMo.

Section 11.6 **Event of Default.** An Event of Default shall include (i) an Event of Default as defined under the Loan Agreement, and (ii) any notification by Grantor pursuant to RSMo. Section 443.055 that Grantor elects to terminate the operation of this Deed of Trust as security for future advances or future obligations made or incurred after the date of receipt of said notification.

Section 11.7 **Future Advances.** This Deed of Trust is governed by Section 443.055 of the Revised Statutes of Missouri, as amended, is intended and agreed to be a security instrument as defined in said Section, and secures present and future advances and present and future obligations, whether optional or obligatory, in the maximum principal/face amount of \$34,517,041. In addition, this Deed of Trust secures unpaid balances of advances made by the Administrative Agent with respect to the Mortgaged Property, for the payment of taxes, insurance premiums and other costs incurred for the protection of the Mortgaged Property and any charges, expenses and fees, including, without limitation, attorneys’ fees, which, by the terms hereof, shall be added to and increase the Indebtedness and Obligations secured hereby. All of the duties and

obligations imposed on the Grantor hereunder, whether absolute or contingent, due or to become due, are for the reasonable protection of the lien of this Deed of Trust. The future advances and future obligations secured hereby may be evidenced not only by the Note, Loan Agreement and other Loan Documents herein described, but also such other notes, guarantees and other documents executed and delivered by Grantor to Administrative Agent subsequent to the date hereof provided that, on the face or within the body thereof, such notes, guarantees or other documents state that they are secured by this Deed of Trust. Neither the existence or priority of this Deed of Trust shall be adversely affected if at any time or from time to time subsequent to the date hereof there are no obligations secured hereby or the obligations secured hereby are reduced to zero. Subject only to the limitations of said Section 443.055 aforesaid, the total amount of obligations secured hereby may increase or decrease from time to time without affecting the validity or priority of this Deed of Trust.

EXECUTED as of the date first above written.

**REMAINDER OF PAGE INTENTIONALLY BLANK
SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE OF BORROWER TO DEED OF TRUST, ASSIGNMENT OF
LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING**

**LAND CLEARANCE FOR
REDEVELOPMENT AUTHORITY OF
KANSAS CITY, MISSOURI**, a public body
corporate and politic organized under the laws of
Missouri and the ordinances of the City of Kansas
City, Missouri

By: _____
Name: Daniel Moyer
Title: Executive Director

STATE OF MISSOURI)

COUNTY OF JACKSON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Daniel Moyer, as Executive Director of Land Clearance for Redevelopment Authority of Kansas City, Missouri, a public body corporate and politic organized under the laws of Missouri and the ordinances of the City of Kansas City, Missouri, on behalf of the corporation, who is personally known to me to be the same person who executed the within instrument or writing and such person duly acknowledged the execution of the same for and on behalf of said entity and acknowledged said instrument to be the free act and deed of said entity.

Notary Public, State of _____
Commission Expires: _____

**SIGNATURE PAGE OF MASTER LESSEE TO DEED OF TRUST, ASSIGNMENT OF
LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING**

***BORROWER SIG BLOCK TO BE ADDED**

STATE OF * _____)
) ss.
COUNTY OF * _____)

On this * _____ day of * _____, 20*____, before me personally appeared the
above-named * _____, as * _____
of * _____, a Delaware limited liability company, to me known to be
the person who executed the foregoing instrument on behalf of and by the authority of such limited
liability company, and acknowledged the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year last above written.

Notary Public
Print Name: _____

My commission expires:

[Notarial Seal]

EXHIBIT A
Legal Description

*

{File: EDCKC/45/ADMIN/ADMIN/99/00216790.DOCX /}DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS,

SECURITY AGREEMENT AND FIXTURE FILING – Exhibit A, Page 1

Welltower Landmark MOB Portfolio 1A (Kansas City)

504085.000320 23014582.3

SCHEDULE I

List of Borrower Parties

1. Land Clearance for Redevelopment Authority of Kansas City, Missouri, a public body corporate and politic organized under the laws of Missouri and the ordinances of the City of Kansas City, Missouri
2. Jacksonville Medical Office Building, LLC, a Delaware limited liability company
3. Lafayette Medical Complex I, LLC, a Delaware limited liability company
4. Old Bridge Medical Office Building, LLC, a Delaware limited liability company
5. Petoskey Medical Office Building, LLC, a Delaware limited liability company
6. TG Brandon Healthplex, LLC, a Delaware limited liability company
7. Rochester Hills Health and Wellness Building, LLC, a Delaware limited liability company