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WINTHROP & WEINSTINE, P.A.
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Minneapolis, Minnesota 55402
Attention: Holly A. Stocker

**LEASEHOLD DEED OF TRUST,
ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

TEXAS

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TEXAS

THIS LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (“**Instrument**”) is made to be effective this _____ day of _____, 2026, by TORRINGTON WILMER, LP, a limited partnership organized and existing under the laws of Texas, whose address is 9001 Cypress Waters Boulevard, Suite 2A, Dallas, Texas 75019, as trustor (“**Borrower**”), to BRETT POSTON, whose address is 2007 Randall Street, Dallas, Texas 75201, as trustee (“**Trustee**”), for the benefit of BOKF, NA, a national banking association in its capacity as bond trustee under the Trust Indenture (defined below) (the “**Bond Trustee**”), whose address is 1401 McKinney, Suite 1000, Houston, Texas 77010 and the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the “**Issuer**”) who address is P.O. Box 13941, Austin, Texas 78711 (together with Trustee, the “**Beneficiary**”). Borrower’s organizational identification number is 32102127225.

RECITALS

WHEREAS, Borrower owns a leasehold interest in certain real property located in Wilmer, Texas legally described on Exhibit A, attached hereto and hereby incorporated herein (the “**Land**”) upon which Borrower intends to construct on the Land a 300-unit affordable housing development; and

WHEREAS, to provide for a portion of the funding necessary for the development of the Improvements (as defined below), the Issuer has determined to issue its Multifamily Housing Revenue Bonds (Torrington Wilmer) Series 2026 dated as of [April] 1, 2026, in the original principal amount of \$[_____] (the “**Bonds**”); and

WHEREAS, pursuant to that certain Continuing Covenants Agreement between Borrower and Cedar Rapids Bank and Trust Company, an Iowa state-chartered banking corporation (“**Lender**”) dated as of even date herewith (the “**Continuing Covenants Agreement**”) and that certain Trust Indenture dated as of [_____] 1, 2026, by and among the Issuer and Bond Trustee (together with any amendments thereto, the “**Trust Indenture**”); and

WHEREAS, pursuant to that certain Loan Agreement dated as of [_____] 1, 2026 (the “**Loan Agreement**”), by and between the Issuer, Borrower and Lender, Lender purchased the Bonds, and the Issuer used the proceeds from the sale of the Bonds to make a loan to Borrower in the maximum principal amount of the Bonds (“**Loan**”); and

WHEREAS, Borrower’s obligation to repay the Loan is evidenced by that certain Promissory Note dated of even date herewith (the “**Note**”), executed by Borrower, payable to Issuer and endorsed to Bond Trustee; and

WHEREAS, Borrower is indebted to Beneficiary under the Note in the principal amount of \$[_____], and the Note matures on [SWAP TERMINATION DATE] (“**Maturity Date**”).

AGREEMENT

TO SECURE TO BENEFICIARY the repayment of the Indebtedness, and all renewals, extensions and modifications of the Indebtedness, and the performance of the covenants and agreements of Borrower contained in the Continuing Covenants Agreement or any other Loan Document, and in consideration of the Indebtedness and the trust created by this Instrument, Borrower irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, the Mortgaged Property, including the Leasehold Estate in the Land located in Dallas County, State of Texas and described in Exhibit A attached to this Instrument, to have and to hold the Mortgaged Property unto Trustee, Trustee’s successor in trust and Trustee’s assigns forever.

Borrower warrants and represents that Borrower is lawfully seized of the Mortgaged Property and has the right, power and authority to grant, convey and assign the Mortgaged Property, and that the Mortgaged Property is unencumbered, except as shown on the schedule of exceptions to coverage in the title policy issued to and accepted by Lender contemporaneously with the execution and recordation of this Instrument and insuring Beneficiary’s interest in the Mortgaged Property (“**Schedule of Title Exceptions**”). Borrower covenants that Borrower will warrant and defend generally the title to the Mortgaged Property against all claims and demands, subject to any easements and restrictions listed in the Schedule of Title Exceptions.

UNIFORM COVENANTS

Covenants. In consideration of the mutual promises set forth in this Instrument, Borrower and Beneficiary covenant and agree as follows:

- 1. Definitions.** The following terms, when used in this Instrument (including when used in the above recitals), will have the following meanings and any capitalized term not specifically defined in this Instrument will have the meaning ascribed to that term in the Continuing Covenants Agreement:

“**Attorneys’ Fees and Costs**” means (a) fees and out-of-pocket costs of Beneficiary’s and Loan Servicer’s attorneys, as applicable, including costs of Beneficiary’s and Loan Servicer’s in-house counsel, support staff costs, costs of preparing for litigation, computerized research, telephone and facsimile transmission expenses, mileage, deposition costs, postage, duplicating, process service, videotaping and similar costs and expenses; (b) costs and fees of expert witnesses, including appraisers; (c) investigatory fees; and (d) the costs for any opinion required by Beneficiary pursuant to the terms of the Loan Documents.

“**Event of Default**” means the occurrence of any event described in Section 8.

“**Fee Estate**” means the fee estate of Ground Lessor in the Land.

“Fixtures” means all property owned by Borrower which is attached to the Land or the Improvements so as to constitute a fixture under applicable law, including: machinery, equipment, engines, boilers, incinerators and installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; and exercise equipment.

“Governmental Authority” means any board, commission, department, agency or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property, or the use, operation or improvement of the Mortgaged Property, or over Borrower.

“Ground Lease” means the lease described in Exhibit B pursuant to which Borrower leases the Land, as such lease may be amended, modified, supplemented, renewed, and extended.

“Ground Lessor” means the lessor under the Ground Lease.

“Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (PCBs) and compounds containing them; lead and lead-based paint; asbestos or asbestos containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Mortgaged Property is prohibited by any Governmental Authority; any substance that requires special handling and any other material or substance now or in the future that (i) is defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” or “pollutant” by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law.

“Hazardous Materials Law” and **“Hazardous Materials Laws”** means all federal, state and local laws, ordinances, regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future, including all amendments, that relate to Hazardous Materials or the protection of human health or the environment and apply to Borrower or to the Mortgaged Property. Hazardous Materials Laws include the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water

Act, 33 U.S.C. Section 1251, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq., and their state analogs.

“Impositions” means all Taxes, Insurance premiums, and any Other Impositions.

“Imposition Reserve Deposits” means all amounts deposited with Beneficiary to pay Impositions.

“Improvements” means the buildings, structures, improvements now constructed or at any time in the future constructed or placed upon the Land, including any future alterations, replacements and additions.

“Indebtedness” means the principal of, interest at the fixed or variable rate set forth in the Note on, and all other amounts due at any time under, the Note, this Instrument or any other Loan Document, including prepayment charges, late charges, default interest, and advances as provided in Section 7 to protect the security of this Instrument.

“Instrument” has the meaning set forth in the first paragraph hereof.

“Insurance” means property insurance, liability insurance and all other insurance that Lender requires Borrower to maintain pursuant to the Continuing Covenants Agreement.

“Leasehold Estate” means Borrower’s interest in the Land and any other real property leased by Borrower pursuant to the Ground Lease, if applicable, including all of the following:

- (a) All rights of Borrower to renew or extend the term of the Ground Lease.
- (b) All amounts deposited by Borrower with Ground Lessor under the Ground Lease.
- (c) Borrower’s right or privilege to terminate, cancel, surrender, modify or amend the Ground Lease.
- (d) All other options, privileges and rights granted and demised to Borrower under the Ground Lease and all appurtenances with respect to the Ground Lease.

“Leases” means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property, and all modifications, extensions or renewals.

“Lien” means any mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance on the Mortgaged Property.

“Loan Documents” shall have the meaning as ascribed to such term in the Continuing Covenants Agreement.

“Loan Servicer” means the entity that from time to time is designated by Lender or its designee to collect payments and deposits and receive Notices under the Note, this Instrument and any other Loan Document, and otherwise to service the loan evidenced by the Note for the benefit of Beneficiary. Unless Borrower receives Notice to the contrary, the Loan Servicer is the entity identified as “Lender” therein.

“Mortgaged Property” means all of Borrower’s present and future right, title and interest in and to all of the following:

- (a) The Land, or, if Borrower’s interest in the Land is pursuant to a Ground Lease, the Ground Lease and the Leasehold Estate.
- (b) The Improvements.
- (c) The Fixtures.
- (d) The Personalty.
- (e) All current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights of way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses and appurtenances related to or benefiting the Land or the Improvements, or both, and all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated.
- (f) All proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, whether or not Borrower obtained the Insurance pursuant to Beneficiary’s requirement.
- (g) All awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, including any awards or settlements resulting from condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof.
- (h) All contracts, options and other agreements for the sale of the Land, or the Leasehold Estate, as applicable, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Borrower now or in the future, including cash or securities deposited to secure performance by parties of their obligations.

- (i) All proceeds from the conversion, voluntary or involuntary, of any of the items described in subsections (a) through (h) inclusive into cash or liquidated claims, and the right to collect such proceeds.
- (j) All Rents and Leases.
- (k) All earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, and all undisbursed proceeds of the Loan.
- (l) All Imposition Reserve Deposits.
- (m) All refunds or rebates of Impositions by any Governmental Authority or any insurance company (other than refunds applicable to periods before the real property tax year in which this Instrument is dated).
- (n) All tenant security deposits which have not been forfeited by any tenant under any Lease and any bond or other security in lieu of such deposits.
- (o) All names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property.
- (p) The Rate Cap Collateral.

“**Notice**” or “**Notices**” means all notices, demands and other communication required under the Loan Documents, provided in accordance with the requirements of the Continuing Covenants Agreement.

“**Other Impositions**” means, collectively, (i) water and sewer charges that could become a Lien on the Mortgaged Property and (ii) assessments or other charges that could become a Lien on the Mortgaged Property, including ground rents and homeowner association dues.

“**Person**” means any natural person, sole proprietorship, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, limited liability limited partnership, joint venture, association, joint stock company, bank, trust, estate, unincorporated organization, any federal, state, county or municipal government (or any agency or political subdivision thereof), endowment fund or any other form of entity.

“**Personalty**” means all of the following:

- (a) Accounts (including deposit accounts) of Borrower related to the Mortgaged Property.
- (b) Equipment and inventory owned by Borrower, which are used now or in the future in connection with the ownership, management or operation of the Land or Improvements or are located on the Land or Improvements,

including furniture, furnishings, machinery, building materials, goods, supplies, tools, books, records (whether in written or electronic form) and computer equipment (hardware and software).

- (c) Other tangible personal property owned by Borrower which is used now or in the future in connection with the ownership, management or operation of the Land or Improvements or is located on the Land or in the Improvements, including ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances (other than Fixtures).
- (d) Any operating agreements relating to the Land or the Improvements.
- (e) Any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements.
- (f) All other intangible property, general intangibles and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental permits relating to any activities on the Land and including subsidy or similar payments received from any sources, including a Governmental Authority.
- (g) Any rights of Borrower in or under letters of credit.

“Prior Lien” means any Lien encumbering the Mortgaged Property preexisting the Lien of this Instrument.

“Property Jurisdiction” means the jurisdiction in which the Land is located.

“Rate Cap Agreement” means the Cap Agreement as defined in the Continuing Covenants Agreement.

“Rate Cap Collateral” means all of the following:

- (a) Any Rate Cap Agreement.
- (b) Any Rate Cap Payments.
- (c) All rights of Borrower under any Rate Cap Agreement and all rights of Borrower to all Rate Cap Payments, including contract rights and general intangibles, whether existing now or arising hereafter.
- (d) All rights, liens and security interests or guaranties granted by any Person to secure or guaranty payment of any Rate Cap Payments, whether existing now or granted hereafter.

- (e) All documents, writings, books, files, records and other documents from or relating to any of the foregoing, whether existing now or created hereafter.
- (f) All cash and non-cash proceeds and products of (b) through (e) of this definition.

“Rate Cap Payment(s)” means all monies payable pursuant to any Rate Cap Agreement.

“Rents” means all rents (whether from residential or non-residential space), revenues and other income of the Land or the Improvements, parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Mortgaged Property, whether now due, past due or to become due, and deposits forfeited by tenants.

“Taxes” means all taxes, assessments, vault rentals and other charges, if any, whether general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a Lien on the Land or the Improvements.

“Uniform Commercial Code” means the Uniform Commercial Code as promulgated in the applicable jurisdiction.

2. Uniform Commercial Code Security Agreement.

- (a) This Instrument is also a security agreement under the Uniform Commercial Code for any of the Mortgaged Property which, under applicable law, may be subjected to a security interest under the Uniform Commercial Code, for the purpose of securing Borrower’s obligations under this Instrument and to further secure Borrower’s obligations under the Note, this Instrument and other Loan Documents, whether such Mortgaged Property is owned now or acquired in the future, and all products and cash and non-cash proceeds thereof (collectively, **“UCC Collateral”**), and by this Instrument, Borrower grants to Beneficiary a security interest in the UCC Collateral. To the extent necessary under applicable law, Borrower hereby authorizes Beneficiary to prepare and file financing statements, continuation statements and financing statement amendments in such form as Beneficiary may require to perfect or continue the perfection of this security interest.
- (b) Unless Borrower gives Notice to Lender and Beneficiary 30 days prior to the occurrence of any of the following, and executes and delivers to Lender and Beneficiary modifications or supplements of this Instrument (and any financing statement which may be filed in connection with this Instrument) as Beneficiary may require, Borrower will not (i) change its name, identity, structure or jurisdiction of organization; (ii) change the location of its place of business (or chief executive office if more than one place of business); or (iii) add to or change any location at which any of the Mortgaged Property is stored, held or located.

- (c) If an Event of Default has occurred and is continuing, Beneficiary will have the remedies of a secured party under the Uniform Commercial Code, in addition to all remedies provided by this Instrument or existing under applicable law. In exercising any remedies, Beneficiary may exercise its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability of Beneficiary's other remedies.
- (d) This Instrument also constitutes a financing statement with respect to any part of the Mortgaged Property that is or may become a Fixture, if permitted by applicable law.

3. Assignment of Rents; Appointment of Receiver; Lender in Possession.

- (a) As part of the consideration for the Indebtedness, Borrower absolutely and unconditionally assigns and transfers to Beneficiary all Rents.
 - (i) It is the intention of Borrower to establish a present, absolute and irrevocable transfer and assignment to Beneficiary of all Rents and to authorize and empower Beneficiary to collect and receive all Rents without the necessity of further action on the part of Borrower.
 - (ii) Promptly upon request by Beneficiary, Borrower agrees to execute and deliver such further assignments as Beneficiary may from time to time require. Borrower and Beneficiary intend this assignment of Rents to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only.
 - (iii) For purposes of giving effect to this absolute assignment of Rents, and for no other purpose, Rents will not be deemed to be a part of the Mortgaged Property. However, if this present, absolute and unconditional assignment of Rents is not enforceable by its terms under the laws of the Property Jurisdiction, then the Rents will be included as a part of the Mortgaged Property and it is the intention of Borrower that in this circumstance this Instrument create and perfect a Lien on Rents in favor of Beneficiary, which Lien will be effective as of the date of this Instrument.
- (b)
 - (i) Until the occurrence of an Event of Default, Beneficiary hereby grants to Borrower a revocable license to collect and receive all Rents, to hold all Rents in trust for the benefit of Beneficiary and to apply all Rents to pay the installments of interest and principal then due and payable under the Note and the other amounts then due and payable under the other Loan Documents, including Imposition Reserve Deposits, and to pay the current costs and expenses of managing, operating and maintaining the Mortgaged Property, including utilities, Taxes and Insurance premiums (to the extent not included in Imposition Reserve Deposits), tenant improvements and other capital expenditures.

- (ii) So long as no Event of Default has occurred and is continuing, the Rents remaining after application pursuant to Section 3(b)(i) may be retained by Borrower free and clear of, and released from, Beneficiary's rights with respect to Rents under this Instrument.
 - (iii) After the occurrence of an Event of Default, and during the continuance of such Event of Default, Borrower authorizes Beneficiary to collect, sue for and compromise Rents and directs each tenant of the Mortgaged Property to pay all Rents to, or as directed by, Beneficiary. From and after the occurrence of an Event of Default, and during the continuance of such Event of Default, and without the necessity of Beneficiary entering upon and taking and maintaining control of the Mortgaged Property directly, or by a receiver, Borrower's license to collect Rents will automatically terminate and Beneficiary will without Notice be entitled to all Rents as they become due and payable, including Rents then due and unpaid. Borrower will pay to Beneficiary upon demand all Rents to which Beneficiary is entitled.
 - (iv) At any time on or after the date of Beneficiary's demand for Rents, Beneficiary may give, and Borrower hereby irrevocably authorizes Beneficiary to give, notice to all tenants of the Mortgaged Property instructing them to pay all Rents to Beneficiary. No tenant will be obligated to inquire further as to the occurrence or continuance of an Event of Default. No tenant will be obligated to pay to Borrower any amounts which are actually paid to Beneficiary in response to such a notice. Any such notice by Beneficiary will be delivered to each tenant personally, by mail or by delivering such demand to each rental unit. Borrower will not interfere with and will cooperate with Beneficiary's collection of such Rents.
- (c) If an Event of Default has occurred and is continuing beyond all applicable notice and cure periods, then Beneficiary will have each of the following rights and may take any of the following actions:
- (i) Beneficiary may, regardless of the adequacy of Beneficiary's security or the solvency of Borrower and even in the absence of waste, enter upon and take and maintain full control of the Mortgaged Property in order to perform all acts that Beneficiary in its discretion determines to be necessary or desirable for the operation and maintenance of the Mortgaged Property, including the execution, cancellation or modification of Leases, the collection of all Rents, the making of repairs to the Mortgaged Property and the execution or termination of contracts providing for the management, operation or maintenance of the Mortgaged Property, for the purposes of enforcing the assignment of Rents pursuant to Section 3(a), protecting the Mortgaged Property or the security of this Instrument, or for such other purposes as Beneficiary in its discretion may deem necessary or desirable.
 - (ii) Alternatively, if an Event of Default has occurred and is continuing beyond all applicable notice and cure periods, regardless of the adequacy of

Beneficiary's security, without regard to Borrower's solvency and without the necessity of giving prior notice (oral or written) to Borrower, Beneficiary may apply to any court having jurisdiction for the appointment of a receiver for the Mortgaged Property to take any or all of the actions set forth in the preceding sentence. If Beneficiary elects to seek the appointment of a receiver for the Mortgaged Property at any time after an Event of Default has occurred and is continuing, Borrower, by its execution of this Instrument, expressly consents to the appointment of such receiver, including the appointment of a receiver ex parte if permitted by applicable law.

- (iii) Reserved.
- (iv) Beneficiary or the receiver, as the case may be, will be entitled to receive a reasonable fee for managing the Mortgaged Property.
- (v) Immediately upon appointment of a receiver or immediately upon Beneficiary's entering upon and taking possession and control of the Mortgaged Property, Borrower will surrender possession of the Mortgaged Property to Beneficiary or the receiver, as the case may be, and will deliver to Beneficiary or the receiver, as the case may be, all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Mortgaged Property and all security deposits and prepaid Rents.
- (iv) If Beneficiary takes possession and control of the Mortgaged Property, then Beneficiary may exclude Borrower and its representatives from the Mortgaged Property.

Borrower acknowledges and agrees that the exercise by Beneficiary of any of the rights conferred under this Section 3 will not be construed to make Beneficiary a mortgagee-in-possession of the Mortgaged Property so long as Beneficiary has not itself entered into actual possession of the Land and Improvements.

- (d) If Beneficiary enters the Mortgaged Property, Beneficiary will be liable to account only to Borrower and only for those Rents actually received. Except to the extent of Beneficiary's gross negligence or willful misconduct, Beneficiary will not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Mortgaged Property, by reason of any act or omission of Beneficiary under Section 3(c), and Borrower hereby releases and discharges Beneficiary from any such liability to the fullest extent permitted by law.
- (e) If the Rents are not sufficient to meet the costs of taking control of and managing the Mortgaged Property and collecting the Rents, any funds expended by Beneficiary for such purposes will become an additional part of the Indebtedness as provided in Section 7.

- (f) Any entering upon and taking of control of the Mortgaged Property by Beneficiary or the receiver, as the case may be, and any application of Rents as provided in this Instrument will not cure or waive any Event of Default or invalidate any other right or remedy of Beneficiary under applicable law or provided for in this Instrument.

4. Assignment of Leases; Leases Affecting the Mortgaged Property.

- (a) As part of the consideration for the Indebtedness, Borrower absolutely and unconditionally assigns and transfers to Beneficiary all of Borrower's right, title and interest in, to and under the Leases, including Borrower's right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.
 - (i) It is the intention of Borrower to establish a present, absolute and irrevocable transfer and assignment to Beneficiary of all of Borrower's right, title and interest in, to and under the Leases. Borrower and Beneficiary intend this assignment of the Leases to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only.
 - (ii) For purposes of giving effect to this absolute assignment of the Leases, and for no other purpose, the Leases will not be deemed to be a part of the Mortgaged Property.
 - (iii) However, if this present, absolute and unconditional assignment of the Leases is not enforceable by its terms under the laws of the Property Jurisdiction, then the Leases will be included as a part of the Mortgaged Property and it is the intention of Borrower that in this circumstance this Instrument create and perfect a Lien on the Leases in favor of Beneficiary, which Lien will be effective as of the date of this Instrument.
- (b) Until Beneficiary gives Notice to Borrower of Beneficiary's exercise of its rights under this Section 4, Borrower will have all rights, power and authority granted to Borrower under any Lease (except as otherwise limited by this Section or any other provision of this Instrument), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Upon the occurrence of an Event of Default, and during the continuance of such Event of Default, the permission given to Borrower pursuant to the preceding sentence to exercise all rights, power and authority under Leases will automatically terminate. Borrower will comply with and observe Borrower's obligations under all Leases, including Borrower's obligations pertaining to the maintenance and disposition of tenant security deposits.
- (c)
 - (i) Borrower acknowledges and agrees that the exercise by Beneficiary, either directly or by a receiver, of any of the rights conferred under this Section 4 will not be construed to make Beneficiary a mortgagee-in-possession of the

Mortgaged Property so long as Beneficiary has not itself entered into actual possession of the Land and the Improvements.

- (ii) The acceptance by Beneficiary of the assignment of the Leases pursuant to Section 4(a) will not at any time or in any event obligate Beneficiary to take any action under this Instrument or to expend any money or to incur any expenses.
- (iii) Except to the extent of Beneficiary's gross negligence or willful misconduct, Beneficiary and Lender will not be liable in any way for any injury or damage to person or property sustained by any Person or Persons in or about the Mortgaged Property.
- (iv) Prior to Beneficiary's actual entry into and taking possession of the Mortgaged Property, Beneficiary will not be obligated for any of the following:
 - (A) Beneficiary will not be obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease).
 - (B) Beneficiary will not be obligated to appear in or defend any action or proceeding relating to the Lease or the Mortgaged Property.
 - (C) Beneficiary will not be responsible for the operation, control, care, management or repair of the Mortgaged Property or any portion of the Mortgaged Property. The execution of this Instrument by Borrower will constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Mortgaged Property is and will be that of Borrower, prior to such actual entry and taking of possession.
- (d) Upon delivery of Notice by Beneficiary to Borrower of Beneficiary's exercise of Beneficiary's rights under this Section 4 at any time after the occurrence of an Event of Default, and during the continuance of such Event of Default, and without the necessity of Beneficiary entering upon and taking and maintaining control of the Mortgaged Property directly, by a receiver, or by any other manner or proceeding permitted by the laws of the Property Jurisdiction, Beneficiary immediately will have all rights, powers and authority granted to Borrower under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.
- (e) Borrower will, promptly upon Beneficiary's request, deliver to Beneficiary an executed copy of each residential Lease then in effect.

5. Prepayment Charge. Borrower may be required to pay a prepayment charge in connection with certain prepayments of the Indebtedness, including a payment made after

Beneficiary's exercise of any right of acceleration of the Indebtedness, as provided in the Continuing Covenants Agreement, the Bond Documents, and the Swap Documents.

6. Application of Payments. If at any time Beneficiary receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, then Beneficiary may apply that payment to amounts then due and payable in any manner and in any order determined by Beneficiary, in Beneficiary's discretion, in accordance with applicable law. Neither Beneficiary's acceptance of an amount that is less than all amounts then due and payable nor Beneficiary's application of such payment in the manner authorized will constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the Indebtedness, Borrower's obligations under this Instrument, the Note and all other Loan Documents will remain unchanged.

7. Protection of Beneficiary's Security; Instrument Secures Future Advances.

(a) If Borrower fails to perform any of its obligations under this Instrument or any other Loan Document, or if any action or proceeding is commenced which purports to affect the Mortgaged Property, Beneficiary's security or Beneficiary's rights under this Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Beneficiary at Beneficiary's option may make such appearances, file such documents, disburse such sums and take such actions as Beneficiary reasonably deems necessary to perform such obligations of Borrower and to protect Beneficiary's interest, including all of the following:

- i. Beneficiary may pay Attorneys' Fees and Costs.
- ii. Beneficiary may pay fees and out-of-pocket expenses of accountants, inspectors and consultants.
- iii. Beneficiary may enter upon the Mortgaged Property to make repairs or secure the Mortgaged Property.
- iv. Beneficiary may procure the Insurance required by the Continuing Covenants Agreement.
- v. Beneficiary may pay any amounts which Borrower has failed to pay under the Loan Documents.
- vi. Beneficiary may perform any of Borrower's obligations under the Loan Documents.
- vii. Beneficiary may make advances to pay, satisfy or discharge any obligation of Borrower for the payment of money that is secured by a Prior Lien.

- (b) Any amounts disbursed by Beneficiary under this Section 7, or under any other provision of this Instrument that treats such disbursement as being made under this Section 7, will be secured by this Instrument, will be added to, and become part of, the principal component of the Indebtedness, will be immediately due and payable and will bear interest from the date of disbursement until paid at the Default Rate pursuant to the Continuing Covenants Agreement and the Bond Documents.
 - (c) Nothing in this Section 7 will require Beneficiary to incur any expense or take any action.
- 8. **Events of Default.** Any “Event of Default” under the Continuing Covenants Agreement will constitute an Event of Default under this Instrument.
- 9. **Remedies Cumulative.** Each right and remedy provided in this Instrument is distinct from all other rights or remedies under this Instrument, the Continuing Covenants Agreement or any other Loan Document or afforded by applicable law or equity, and each will be cumulative and may be exercised concurrently, independently or successively, in any order. Beneficiary’s exercise of any particular right or remedy will not in any way prevent Beneficiary from exercising any other right or remedy available to Beneficiary. Beneficiary may exercise any such remedies from time to time and as often as Beneficiary chooses.
- 10. **Waiver of Statute of Limitations, Offsets and Counterclaims.** Borrower waives the right to assert any statute of limitations as a bar to the enforcement of the Lien of this Instrument or to any action brought to enforce any Loan Document. Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Beneficiary or otherwise to offset any obligations to make the payments required by the Loan Documents. No failure by Beneficiary to perform any of its obligations under this Instrument will be a valid defense to, or result in any offset against, any payments that Borrower is obligated to make under any of the Loan Documents.
- 11. **Waiver of Marshalling.**
 - (a) Notwithstanding the existence of any other Liens in the Mortgaged Property held by Beneficiary or by any other party, Beneficiary will have the right to determine the order in which any or all of the Mortgaged Property will be subjected to the remedies provided in this Instrument, the Note, the Continuing Covenants Agreement, or any other Loan Document or applicable law. Beneficiary will have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of such remedies.
 - (b) Borrower and any Person who now or in the future acquires a Lien in the Mortgaged Property and who has actual or constructive notice of this Instrument waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the

exercise of any of the remedies permitted by applicable law or provided in this Instrument.

12. Further Assurances; Beneficiary's Expenses.

- (a) Borrower will deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements or amendments, transfers and assurances as Beneficiary may require from time to time in order to better assure, grant and convey to Beneficiary the rights intended to be granted, now or in the future, to Beneficiary under this Instrument and the Loan Documents or in connection with Beneficiary's consent rights under the Continuing Covenants Agreement.
- (b) Borrower acknowledges and agrees that, in connection with each request by Borrower under this Instrument or any Loan Document, Borrower will pay all reasonable Attorneys' Fees and Costs and expenses incurred by Beneficiary, including any fees payable in accordance with any request for further assurances or an estoppel certificate pursuant to the Continuing Covenants Agreement, regardless of whether the matter is approved, denied or withdrawn. Any amounts payable by Borrower under this Instrument or under any other Loan Document will be deemed a part of the Indebtedness, will be secured by this Instrument and will bear interest at the Default Rate pursuant to the Continuing Covenants Agreement and the Bond Documents.

13. Governing Law; Consent to Jurisdiction and Venue. This Instrument, and any Loan Document which does not itself expressly identify the law that is to apply to it, will be governed by the laws of the Property Jurisdiction without regard to any principles of conflicts of law. Borrower agrees that any controversy arising under or in relation to the Note, this Instrument or any other Loan Document may be litigated in the Property Jurisdiction or as otherwise set forth in the Continuing Covenants Agreement, which venue and forum selection provisions are incorporated herein by this reference. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction and as otherwise set forth in the Continuing Covenants Agreement will have jurisdiction over all controversies that may arise under or in relation to the Note, any security for the Indebtedness or any other Loan Document. Borrower irrevocably consents to service, jurisdiction and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing in this Section 13 is intended to limit Beneficiary's right to bring any suit, action or proceeding relating to matters under this Instrument in any court of any other jurisdiction.

14. Notice. All Notices, demands and other communications under or concerning this Instrument will be governed by the terms set forth in the Continuing Covenants Agreement.

15. Successors and Assigns Bound. This Instrument will bind the respective successors and assigns of Borrower and Beneficiary, and the rights granted by this Instrument will inure to Beneficiary's successors and assigns.

16. Joint and Several Liability. If more than one Person signs this Instrument as Borrower, the obligations of such Persons will be joint and several.

17. Relationship of Parties; No Third Party Beneficiary.

- (a) The relationship between Beneficiary and Borrower will be solely that of creditor and debtor, respectively, and nothing contained in this Instrument will create any other relationship between Beneficiary and Borrower. Nothing contained in this Instrument will constitute Beneficiary as a joint venturer, partner or agent of Borrower, or render Beneficiary liable for any debts, obligations, acts, omissions, representations or contracts of Borrower.
- (b) No creditor of any party to this Instrument and no other Person will be a third party beneficiary of this Instrument or any other Loan Document. Without limiting the generality of the preceding sentence, (i) any arrangement (“**Servicing Arrangement**”) between Beneficiary and any Loan Servicer for loss sharing or interim advancement of funds will constitute a contractual obligation of such Loan Servicer that is independent of the obligation of Borrower for the payment of the Indebtedness, (ii) Borrower will not be a third party beneficiary of any Servicing Arrangement, and (iii) no payment by the Loan Servicer under any Servicing Arrangement will reduce the amount of the Indebtedness.

18. Severability; Amendments.

- (a) The invalidity or unenforceability of any provision of this Instrument will not affect the validity or enforceability of any other provision, and all other provisions will remain in full force and effect. This Instrument contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Instrument.
- (b) This Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

19. Construction.

- (a) The captions and headings of the Sections of this Instrument are for convenience only and will be disregarded in construing this Instrument. Any reference in this Instrument to a “Section” will, unless otherwise explicitly provided, be construed as referring to a Section of this Instrument.
- (b) Any reference in this Instrument to a statute or regulation will be construed as referring to that statute or regulation as amended from time to time.
- (c) Use of the singular in this Instrument includes the plural and use of the plural includes the singular.
- (d) As used in this Instrument, the term “including” means “including, but not limited to” and the term “includes” means “includes without limitation.”

- (e) The use of one gender includes the other gender, as the context may require.
- (f) Unless the context requires otherwise any definition of or reference to any agreement, instrument or other document in this Instrument will be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in this Instrument).
- (g) Any reference in this Instrument to any Person will be construed to include such Person's successors and assigns.
- (h) Notwithstanding anything herein to the contrary, (A) the applicable and necessary provisions of the Indenture are incorporated herein by reference, including the rights, protections, immunities and indemnities afforded Beneficiary in its capacity as bond trustee thereunder; and (B) Beneficiary will be entitled to request and receive written instructions from Lender, who will direct in writing all remedies and other actions which may be exercised by Beneficiary under this Instrument, and Beneficiary will have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by Beneficiary in accordance with such written direction or otherwise.

20. Subrogation. If, and to the extent that, the proceeds of the Loan, or subsequent advances under Section 7, are used to pay, satisfy or discharge a Prior Lien, such Loan proceeds or advances will be deemed to have been advanced by Beneficiary at Borrower's request, and Beneficiary will automatically, and without further action on its part, be subrogated to the rights, including Lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

21. Fixture Filing. This Instrument, upon being recorded or registered in the real estate records of the office of the county recorder of the county in which the Land is situated (the "**Recorder's Office**"), shall constitute and operate as a financing statement filed as a "fixture filing" within the meaning of Sections 9-334 and 9-502 of the UCC for the purposes of the UCC against all of the Mortgaged Property which is or is to become fixtures (as that term is defined in Article 9 of the UCC) related to the Land. Information concerning the security interest herein granted may be obtained at the addresses of Debtor (Borrower) and Secured Party (Beneficiary) as set forth in the first paragraph of this Instrument.

22-28. Reserved.

29. No Merger of Estates.

- (a) If Borrower acquires the Fee Estate, there will be no merger between the Fee Estate and the Leasehold Estate unless all Persons, including Beneficiary, having an interest in the Ground Lease consent in writing to the merger.
- (b) Simultaneously with Borrower's acquisition of the Fee Estate, the Lien of this Instrument will automatically, without the necessity of any further conveyance, be

spread to cover the Fee Estate and as so spread will be prior to the Lien of any mortgage, deed of trust or other Lien placed on the Fee Estate after the date of this Instrument. Promptly after Borrower's acquisition of the Fee Estate, Borrower, at its sole cost and expense, including payment of Beneficiary's Attorneys' Fees and Costs and out-of-pocket disbursements, will execute and deliver all documents and instruments necessary to subject the Fee Estate to the Lien of this Instrument, and must provide to Beneficiary a title insurance policy insuring the Lien of this Instrument as a first Lien on the Fee Estate and the Leasehold Estate, as applicable.

- (c) If Beneficiary acquires the Fee Estate and the Leasehold Estate (whether pursuant to the provisions of the Ground Lease, by foreclosure of this Instrument or otherwise), the Fee Estate and the Leasehold Estate will not merge as a result of such acquisition and will remain separate and distinct for all purposes after such acquisition unless and until Beneficiary elects to merge the Fee Estate and the Leasehold Estate.

30. Reserved.

31. Acceleration; Remedies.

- (a) At any time during the existence of an Event of Default, Beneficiary, at Beneficiary's option, may declare the Indebtedness to be immediately due and payable without further demand, and may invoke the power of sale and any other remedies permitted by Texas law or provided in this Instrument, the Continuing Covenants Agreement or in any other Loan Document. Borrower acknowledges that the power of sale granted in this Instrument may be exercised by Beneficiary without prior judicial hearing. Beneficiary will be entitled to collect all costs and expenses incurred in pursuing such remedies, including Attorneys' Fees and Costs, costs of documentary evidence, abstracts and title reports.
- (b) If Beneficiary invokes the power of sale, Beneficiary may, by and through the Trustee, or otherwise, sell or offer for sale the Mortgaged Property in such portions, order and parcels as Beneficiary may determine, with or without having first taken possession of the Mortgaged Property, to the highest bidder for cash at public auction. Such sale will be made at the courthouse door of the county in which all or any part of the Land to be sold is situated (whether the parts or parcel, if any, situated in different counties are contiguous or not, and without the necessity of having any Personalty present at such sale) on the first Tuesday of any month between the hours of 10:00 a.m. and 4:00 p.m. (or, if the first Tuesday of the month falls on January 1 or July 4, the date of the foreclosure sale will be the first Wednesday of such month), after advertising the time, place and terms of sale and that portion of the Mortgaged Property to be sold by posting or causing to be posted written or printed notice of sale at least 21 days before the date of the sale at the courthouse door of the county in which the sale is to be made and at the courthouse door of any other county in which a portion of the Land may be situated, and by filing such notice with the County Clerk(s) of the county(s) in which all or a portion

of the Land may be situated, which notice may be posted and filed by the Trustee acting, or by any person acting for the Trustee, and Beneficiary has, at least 21 days before the date of the sale, served written or printed notice of the proposed sale by certified mail on each debtor obligated to pay the Indebtedness according to Beneficiary's records by the deposit of such notice, enclosed in a postpaid wrapper, properly addressed to such debtor at debtor's most recent address as shown by Beneficiary's records, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed will be *prima facie* evidence of the fact of service.

- (c) Trustee will deliver to the purchaser at the sale, within a reasonable time after the sale, a deed conveying the Mortgaged Property so sold as to the Fee Estate and the Leasehold Estate with covenants of general warranty. Borrower covenants and agrees to defend generally the purchaser's title to the Mortgaged Property against all claims and demands. The recitals in Trustee's deed will be *prima facie* evidence of the truth of the statements contained in those recitals. Trustee will apply the proceeds of the sale in the following order: (i) to all reasonable costs and expenses of the sale, including reasonable Trustee's fees not to exceed 5% of the gross sales price, Attorneys' Fees and Costs and costs of title evidence; (ii) to the Indebtedness in such order as Beneficiary, in Beneficiary's discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled to the excess.
- (d) If all or any part of the Mortgaged Property is sold pursuant to this Section, Borrower will be divested of any and all interest and claim to the Mortgaged Property, including any interest or claim to all insurance policies, utility deposits, bonds, loan commitments and other intangible property included as a part of the Mortgaged Property. Additionally, after a sale of all or any part of the Land, Improvements, Fixtures and Personalty, Borrower will be considered a tenant at sufferance of the purchaser of the same, and the purchaser will be entitled to immediate possession of such property. If Borrower will fail to vacate the Mortgaged Property immediately, the purchaser may and will have the right, without further notice to Borrower, to go into any justice court in any precinct or county in which the Mortgaged Property is located and file an action in forcible entry and detainer, which action will lie against Borrower or its assigns or legal representatives, as a tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have under this Instrument or otherwise.
- (e) In the event an interest in any of the Mortgaged Property is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale, Borrower agrees as follows: notwithstanding the provisions of Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Borrower agrees that Beneficiary will be entitled to seek a deficiency judgment from Borrower and any other party obligated on the Note equal to the difference between the amount owing on the Note and the amount for which the Mortgaged Property was sold pursuant to judicial or nonjudicial

foreclosure sale. Borrower expressly recognizes that this Section constitutes a waiver of the above-cited provisions of the Texas Property Code which would otherwise permit Borrower and other persons against whom a recovery of deficiencies is sought or Guarantor independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Mortgaged Property as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Borrower further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Mortgaged Property for purposes of calculating deficiencies owed by Borrower, Guarantor, and others against whom recovery of a deficiency is sought. Alternatively, in the event the waiver provided for in this Section is determined by a court of competent jurisdiction to be unenforceable, in any action for a deficiency after a foreclosure under this Instrument, if any person against whom recovery is sought requests the court in which the action is pending to determine the fair market value of the Mortgaged Property, as of the date of the foreclosure sale, the following will be the basis of the court's determination of fair market value:

- (i) The Mortgaged Property will be valued "as is" and in its condition as of the date of foreclosure, and no assumption of increased value because of post-foreclosure repairs, refurbishment, restorations or improvements will be made.
- (ii) Any adverse effect on the marketability of title because of the foreclosure or because of any other title condition not existing as of the date of this Instrument will be considered.
- (iii) The valuation of the Mortgaged Property will be based upon an assumption that the foreclosure purchaser desires a prompt resale of the Mortgaged Property for cash within a 6 month-period after foreclosure.
- (iv) Although the Mortgaged Property may be disposed of more quickly by the foreclosure purchaser, the gross valuation of the Mortgaged Property as of the date of foreclosure will be discounted for a hypothetical reasonable holding period (not to exceed 6 months) at a monthly rate equal to the average monthly interest rate on the Note for the 12 months before the date of foreclosure.
- (v) The gross valuation of the Mortgaged Property as of the date of foreclosure will be further discounted and reduced by reasonable estimated costs of disposition, including brokerage commissions, title policy premiums, environmental assessment and clean-up costs, tax and assessment, prorations, costs to comply with legal requirements and Attorneys' Fees and Costs.

- (vi) Expert opinion testimony will be considered only from a licensed appraiser certified by the State of Texas and, to the extent permitted under Texas law, a member of the Appraisal Institute, having at least 5 years' experience in appraising property similar to the Mortgaged Property in the county where the Mortgaged Property is located, and who has conducted and prepared a complete written appraisal of the Mortgaged Property taking into considerations the factors set forth in this Instrument; no expert opinion testimony will be considered without such written appraisal.
 - (vii) Evidence of comparable sales will be considered only if also included in the expert opinion testimony and written appraisal referred to in subsection (vi), above.
 - (viii) An affidavit executed by Beneficiary to the effect that the foreclosure bid accepted by Trustee was equal to or greater than the value of the Mortgaged Property determined by Beneficiary based upon the factors and methods set forth in subsections (i) through (vii) above before the foreclosure will constitute *prima facie* evidence that the foreclosure bid was equal to or greater than the fair market value of the Mortgaged Property on the foreclosure date.
- (f) Beneficiary may, at Beneficiary's option, comply with these provisions in the manner permitted or required by Title 5, Section 51.002 of the Texas Property Code (relating to the sale of real estate) or by Chapter 9 of the Texas Business and Commerce Code (relating to the sale of collateral after default by a debtor), as those titles and chapters now exist or may be amended or succeeded in the future, or by any other present or future articles or enactments relating to same subject. Unless expressly excluded, the Mortgaged Property will include Rents collected before a foreclosure sale, but attributable to the period following the foreclosure sale, and Borrower will pay such Rents to the purchaser at such sale.
- (g) At any such sale, all of the following will be true:
- (i) Whether made under the power contained in this Instrument, Section 51.002 of the Texas Property Code, Chapter 9 of the Texas Business and Commerce Code, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it will not be necessary for Trustee to have physically present, or to have constructive possession of, the Mortgaged Property. Borrower will 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 will pass to the purchaser as completely as if the property had been actually present and delivered to the purchaser at the sale.
 - (ii) Each instrument of conveyance executed by Trustee will contain a general warranty of title, binding upon Borrower.

- (iii) The recitals contained in any instrument of conveyance made by Trustee will conclusively establish the truth and accuracy of the matters recited in the Instrument, including nonpayment of the Indebtedness and the advertisement and conduct of the sale in the manner provided in this Instrument and otherwise by law and the appointment of any successor Trustee.
- (iv) All prerequisites to the validity of the sale will be conclusively presumed to have been satisfied.
- (v) The receipt of Trustee or of such other party or officer making the sale will be sufficient to discharge to the purchaser or purchasers for such purchaser(s)' purchase money, and no such purchaser or purchasers, or such purchaser(s)' assigns or personal representatives, will thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication of such purchase money.
- (vi) To the fullest extent permitted by law, Borrower will be completely and irrevocably divested of all of Borrower's right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold, and such sale will be a perpetual bar to any claim to all or any part of the property sold, both at law and in equity, against Borrower and against any person claiming by, through or under Borrower.
- (vii) To the extent and under such circumstances as are permitted by law, Beneficiary may be a purchaser at any such sale.

32. Release. Upon payment of the Indebtedness, Beneficiary will release this Instrument. Borrower will pay Beneficiary's reasonable costs incurred in releasing this Instrument.

33. Trustee.

- (a) Trustee may resign by giving of notice of such resignation in writing to Beneficiary. If Trustee will die, resign or become disqualified from acting under this Instrument or will fail or refuse to act in accordance with this Instrument when requested by Beneficiary or if for any reason and without cause Beneficiary will prefer to appoint a substitute trustee to act instead of the original Trustee named in this Instrument or any prior successor or substitute trustee, Beneficiary will have full power to appoint a substitute trustee and, if preferred, several substitute trustees in succession who will succeed to all the estate, rights, powers and duties of the original Trustee named in this Instrument. Such appointment may be executed by an authorized officer, agent or attorney-in-fact of Beneficiary (whether acting pursuant to a power of attorney or otherwise), and such appointment will be conclusively presumed to

be executed with authority and will be valid and sufficient without proof of any action by Beneficiary.

- (b) Any successor Trustee appointed pursuant to this Section will, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of the predecessor Trustee with like effect as if originally named as Trustee in this Instrument; but, nevertheless, upon the written request of Beneficiary or such successor Trustee, the Trustee ceasing to act will execute and deliver an instrument transferring to such successor Trustee, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and will duly assign, transfer and deliver any of the property and monies held by the Trustee ceasing to act to the successor Trustee.
 - (c) Trustee may authorize one or more parties to act on Trustee's behalf to perform the ministerial functions required of Trustee under this Instrument, including the transmittal and posting of any notices.
34. **Vendor's Lien.** To the extent a vendor's lien is retained in that certain deed conveying the Mortgaged Property to Borrower and dated on or about the date of this Instrument, such vendor's lien has been assigned to Beneficiary, the Note is primarily secured by said vendor's lien, and this Instrument is additional security therefore.
35. **No Fiduciary Duty.** Beneficiary owes no fiduciary or other special duty to Borrower.
36. **Fixture Filing.** This Instrument is also a fixture filing under the Uniform Commercial Code of Texas.
37. **Additional Provisions Regarding Assignment Of Rents.** Section 3 will not be construed to require a *pro tanto* or other reduction of the Indebtedness resulting from the assignment of Rents. If the provisions of Section 3 and the preceding sentence cause the assignment of Rents in Section 3 to be deemed to be an assignment for additional security only, Beneficiary will be entitled to all rights, benefits and remedies attendant to such collateral assignment. The assignment of Rents contained in Section 3 will terminate upon the release of this Instrument.
38. **Loan Charges.** Borrower and Beneficiary intend at all times to comply with the laws of the State of Texas governing the maximum rate or amount of interest payable on or in connection with the Indebtedness (or applicable United States federal law to the extent that it permits Beneficiary to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount payable under the Note, this Instrument or any other Loan Document, or contracted for, charged, taken, reserved or received with respect to the Indebtedness, or if acceleration of the maturity of the Indebtedness, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by any applicable law, then Borrower and Beneficiary expressly intend that all excess amounts collected by Beneficiary will be applied to reduce the unpaid principal balance of the

Indebtedness (or, if the Indebtedness has been or would thereby be paid in full, will be refunded to Borrower), and the provisions of the Note, this Instrument and the other Loan Documents immediately will be deemed reformed and the amounts thereafter collectible under the Loan Documents reduced, without the necessity of the execution of any new documents, so as to comply with any applicable law, but so as to permit the recovery of the fullest amount otherwise payable under the Loan Documents. The right to accelerate the maturity of the Indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Beneficiary does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to Beneficiary for the use, forbearance or detention of the Indebtedness will, to the extent permitted by any applicable law, be amortized, prorated, allocated and spread throughout the full term of the Indebtedness until payment in full so that the rate or amount of interest on account of the Indebtedness does not exceed the applicable usury ceiling. Notwithstanding any provision contained in the Note, this Instrument or any other Loan Document that permits the compounding of interest, including any provision by which any accrued interest is added to the principal amount of the Indebtedness, the total amount of interest that Borrower is obligated to pay and Beneficiary is entitled to receive with respect to the Indebtedness will not exceed the amount calculated on a simple (i.e., noncompounded) interest basis at the maximum rate on principal amounts actually advanced to or for the account of Borrower, including all current and prior advances and any advances made pursuant to the Instrument or any other Loan Document (such as for the payment of Impositions and similar expenses or costs).

39. ENTIRE AGREEMENT. THIS INSTRUMENT, THE NOTE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

40. WAIVER OF TRIAL BY JURY.

- (a) BORROWER AND BENEFICIARY EACH COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS INSTRUMENT OR THE RELATIONSHIP BETWEEN THE PARTIES AS BORROWER AND BENEFICIARY THAT IS TRIABLE OF RIGHT BY A JURY.**
- (b) BORROWER AND BENEFICIARY EACH WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.**

41. Notice of Additional Provisions Regarding Insurance. Any terms to the contrary contained in this Instrument notwithstanding, the following requirements are hereby imposed pursuant to Section 307.052 of the Texas Finance Code:

(a) **BORROWER IS REQUIRED TO: (i) KEEP THE MORTGAGED PROPERTY INSURED AGAINST DAMAGE IN AN AMOUNT EQUAL TO THE INDEBTEDNESS, (ii) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER, AND (iii) NAME THE BENEFICIARY AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF LOSS.**

(b) **IF BORROWER FAILS TO COMPLY WITH SUBSECTION (a) ABOVE, BENEFICIARY MAY, BUT WILL NOT BE OBLIGATED TO, OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF BORROWER AT BORROWER'S EXPENSE.**

42. Attached Exhibits. The following Exhibits, if marked with an "X" in the space provided, are attached to this Instrument:

<input checked="" type="checkbox"/>	Exhibit A	Description of the Land
<input checked="" type="checkbox"/>	Exhibit B	Ground Lease Description
<input checked="" type="checkbox"/>	Exhibit C	Ground Lease Deed of Trust with Fee Joinder

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**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE AND ACKNOWLEDGMENT PAGE FOLLOWS**

IN WITNESS WHEREOF, Borrower has signed and delivered this Instrument or has caused this Instrument to be signed and delivered by its duly authorized representative.

BORROWER:

TORRINGTON WILMER, LP, a
Texas limited partnership

By: DCHFC 2025 Wilmer GP, LLC, a
Texas limited liability company, its
General Partner

By: Dallas County Housing Finance Corporation 2025, a
Texas non-profit housing finance corporation, its
Sole Member

By: _____
Name: _____
Its: _____

STATE OF TEXAS)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by _____, the _____ of Dallas County Housing Finance Corporation 2025, a Texas non-profit housing finance corporation, the Sole Member of DCHFC 2025 Wilmer GP, LLC, a Texas limited liability company, the General Partner of Torrington Wilmer, LP, a Texas limited partnership, for and on behalf of said limited partnership.

Notary Public

EXHIBIT A

DESCRIPTION OF THE LAND

[to be inserted]

EXHIBIT B

GROUND LEASE DESCRIPTION

1. Ground Lease dated as of [_____], 2026, by and between Dallas County Housing Finance Corporation 2025, a Texas non-profit housing finance corporation, as landlord, and Torrington Wilmer, LP, a Texas limited partnership, as tenant.
2. [Memorandum of Ground Lease] dated as of [_____], 2026, by and between Dallas County Housing Finance Corporation 2025, a Texas non-profit housing finance corporation, as landlord, and Torrington Wilmer, LP, a Texas limited partnership, as tenant, and to be recorded against the Land (as defined above) in the Official Public Records of Dallas County, Texas.

EXHIBIT C

GROUND LEASE DEED OF TRUST WITH FEE JOINDER

The following changes are made to the Instrument which precedes this Exhibit C, which is incorporated into and made a part of the Instrument by this reference:

- A. The granting clause on Page 2 of this Instrument is deleted and replaced with the following:

TO SECURE TO BENEFICIARY the repayment of the Indebtedness, and all renewals, extensions and modifications of the Indebtedness, and the performance of the covenants and agreements of Borrower and Ground Lessor contained in the Continuing Covenants Agreement or any other Loan Document, and in consideration of the Indebtedness and the trust created by this Instrument, Borrower irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, the Mortgaged Property, including the Leasehold Estate and the Fee Estate in the Land located in Dallas County, State of Texas and described in Exhibit A attached to this Instrument, to have and to hold the Mortgaged Property unto Trustee, Trustee's successor in trust and Trustee's assigns forever.

- B. The definitions of "Fixtures", "Mortgaged Property" and "Personalty" in Section 1 of this Instrument are deleted and replaced with the following:

"Fixtures" means all property owned by Borrower or Ground Lessor which is attached to the Land or the Improvements so as to constitute a fixture under applicable law, including: machinery, equipment, engines, boilers, incinerators and installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; and exercise equipment.

"Mortgaged Property" means all of Borrower's and Ground Lessor's present and future right, title and interest in and to all of the following:

- (a) The Land, including Borrower's interest in the Land pursuant to the Ground Lease, the Ground Lease and the Leasehold Estate, and Ground Lessor's interest in the Land, the Ground Lease, and the Fee Estate.
- (b) The Improvements.

- (c) The Fixtures.
- (d) The Personalty.
- (e) All current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights of way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses and appurtenances related to or benefiting the Land or the Improvements, or both, and all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated.
- (f) All proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, whether or not Borrower or Ground Lessor obtained the Insurance pursuant to Lender's requirement or the Ground Lease.
- (g) All awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land or the Leasehold Estate, as applicable, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, including any awards or settlements resulting from condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof.
- (h) All contracts, options and other agreements for the sale of the Land, or the Leasehold Estate, as applicable, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Borrower or Ground Lessor now or in the future, including cash or securities deposited to secure performance by parties of their obligations.
- (i) All proceeds from the conversion, voluntary or involuntary, of any of the items described in subsections (a) through (h) inclusive into cash or liquidated claims, and the right to collect such proceeds.
- (j) All Rents and Leases (including the Ground Lease).
- (k) All earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, and all undisbursed proceeds of the Loan.
- (l) All Imposition Reserve Deposits.
- (m) All refunds or rebates of Impositions by any Governmental Authority or any insurance company (other than refunds applicable to periods before the real property tax year in which this Instrument is dated).

- (n) All tenant security deposits which have not been forfeited by any tenant under any Lease (including the Ground Lease) and any bond or other security in lieu of such deposits.
- (o) All names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property.

“Personalty” means all of the following:

- (a) Accounts (including deposit accounts) related to the Mortgaged Property.
- (b) Equipment and inventory which are used now or in the future in connection with the ownership, management or operation of the Land or Improvements or are located on the Land or Improvements, including furniture, furnishings, machinery, building materials, goods, supplies, tools, books, records (whether in written or electronic form) and computer equipment (hardware and software).
- (c) Other tangible personal property which is used now or in the future in connection with the ownership, management or operation of the Land or Improvements or is located on the Land or in the Improvements, including ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances (other than Fixtures).
- (d) Any operating agreements relating to the Land or the Improvements.
- (e) Any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements.
- (f) All other intangible property, general intangibles and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental permits relating to any activities on the Land and including subsidy or similar payments received from any sources, including a Governmental Authority.

C. Sections 29 and 30 of this Instrument are deleted and replaced with the following:

29. No Merger of Estates.

- (a) If Borrower acquires the Fee Estate, there will be no merger between the Fee Estate and the Leasehold Estate unless all Persons, including Lender, having an interest in the Ground Lease consent in writing to the merger.
- (b) Simultaneously with Borrower’s acquisition of the Fee Estate, the Lien of this Instrument will automatically, without the necessity of any further conveyance, continue to cover the Fee Estate and will be and remain prior

to the Lien of any mortgage, deed of trust or other Lien placed on the Fee Estate after the date of this Instrument. Promptly after Borrower's acquisition of the Fee Estate, Borrower, at its sole cost and expense, including payment of Lender's Attorneys' Fees and Costs and out-of-pocket disbursements, will execute and deliver all documents and instruments necessary to subject or further subject the Fee Estate to the Lien of this Instrument or to confirm and ratify such Lien, and must provide to Lender a title insurance policy insuring the Lien of this Instrument as a first Lien on the Fee Estate and the Leasehold Estate, as applicable.

- (c) If Lender acquires the Fee Estate and the Leasehold Estate (whether pursuant to the provisions of the Ground Lease, by foreclosure of this Instrument or otherwise), the Fee Estate and the Leasehold Estate will not merge as a result of such acquisition and will remain separate and distinct for all purposes after such acquisition unless and until Lender elects to merge the Fee Estate and the Leasehold Estate.

30. Ground Lessor Joinder.

- (a) By its execution and delivery of this Instrument, Ground Lessor joins in this Instrument with the same intent and consequence as if Ground Lessor were originally a party to this Instrument, for the purpose of imposing the lien of this Instrument on the Fee Estate, and acknowledging the agreements, covenants and obligations set forth in this Instrument are applicable to Ground Lessor, including those set forth in Sections 2, 3, 4, 6, 7(a), 10 – 13, 15 – 17 and 20 of this Instrument. All leasehold mortgagee protection provisions set forth in the Ground Lease, and all other provisions inuring to the benefit of leasehold mortgagees or their successors or assigns contained in the Ground Lease, and any representations, warranties and certifications set forth in the Estoppel Certificate (as defined in the Continuing Covenants Agreement) delivered by Ground Lessor in connection with the Loan, are incorporated into this Instrument by reference and are restated and confirmed by Ground Lessor for the benefit of Lender.
- (b) Ground Lessor represents to Lender that it has the power, authority and right to execute this Instrument as an accommodation grantor, and to deed, grant, convey and assign to, as applicable, Lender or Trustee, in trust, a security interest in Ground Lessor's right, title and interest in the Mortgaged Property pursuant to the terms of this Instrument and to keep and observe all of the terms of this Instrument to be performed by Ground Lessor under this Instrument. Ground Lessor further represents that Ground Lessor possesses an unencumbered fee simple absolute estate in the Land and that it owns the Land and, to the extent not owned in fee by Borrower, the Improvements, free and clear of all liens, encumbrances and charges except for those otherwise approved by Lender. Ground Lessor will forever warrant, defend and preserve the title, validity and priority of the lien of this Instrument and defend the same to Lender against the claims of all persons.

Ground Lessor agrees that Ground Lessor will not, without the prior written consent of Lender, cause or agree to a transfer of or all or any part of the Mortgaged Property or any interest in the Mortgaged Property, or permit a transfer of all or any portion of the Mortgaged Property.

- (c) Ground Lessor acknowledges all of the following:
 - (i) Lender has not made any representations or warranties to Ground Lessor with respect to the creditworthiness of Borrower or the prospects of repayment of the Indebtedness.
 - (ii) Ground Lessor assumes full responsibility for keeping informed with respect to Borrower's business operations, if any, and financial condition to the extent Ground Lessor wishes to do so.
 - (iii) Lender will have no duty to disclose or report to Ground Lessor any information now or later known to Lender with respect to Borrower, including any information relating to any of Borrower's business operations or financial condition.
- (d) At any time after Ground Lessor receives notice of an Event of Default under any of the Loan Documents from Lender, Ground Lessor has the right (but will not be obligated) to make any payment, perform any obligation and take any other action that Borrower would have the right to pay, perform or take under this Instrument which Ground Lessor deems necessary or desirable to cure the Event of Default.
- (e) Ground Lessor acknowledges and agrees that, upon the occurrence of an Event of Default, Lender or Trustee (if applicable) may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower, Ground Lessor, and in and to the Mortgaged Property, including the Land, to the fullest extent under the terms of this Instrument, the Continuing Covenants Agreement, and the other Loan Documents.
- (f) Any indebtedness of Borrower to Ground Lessor now or later existing (including claims under the Ground Lease or any rights to subrogation Ground Lessor may have as a result of this Instrument or any action taken by Lender under this Instrument), together with any interest thereon, will be, and such indebtedness is, hereby deferred, postponed and subordinated to the prior payment in full of the Indebtedness.
- (g) Ground Lessor has no personal liability for the repayment of the Indebtedness or for the performance of any of Borrower's or Ground Lessor's obligations under the Loan Documents, and Ground Lessor's liability under the Loan Documents is expressly limited to the Mortgaged

Property. However, nothing in this exhibit limits the liability or obligations of Ground Lessor as Landlord under the Ground Lease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DALLAS COUNTY HOUSING FINANCE CORPORATION 2025, a
Texas non-profit housing finance corporation

By: _____
Name: _____
Authorized Signer

STATE OF TEXAS)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by _____, an Authorized Signer of Dallas County Housing Finance Corporation 2025, a Texas non-profit housing finance corporation, for and on behalf of said non-profit housing finance corporation.

Notary Public