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## LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT

(Collateral is or includes fixtures)  
(To be filed in Real Property Records)

dated as of June 12, 2007

by

**AMF BOWLING CENTERS, INC.,  
as Mortgagor,**

to

**CREDIT SUISSE, CAYMAN ISLANDS BRANCH,  
as Second Lien Collateral Agent for the benefit of the Second Lien Credit Parties referred to  
herein,  
as Mortgagee**

**THIS INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS AND  
SECURES OBLIGATIONS CONTAINING PROVISIONS FOR CHANGES IN INTEREST  
RATES. THIS INSTRUMENT ALSO SECURES FUTURE ADVANCES WHICH ARE  
OBLIGATORY SUBJECT TO THE PROVISIONS OF THE SECOND LIEN LOAN  
DOCUMENTS.**

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## TABLE OF CONTENTS

	<u>Page</u>
<b>ARTICLE I</b>	
<b>DEFINITIONS</b>	
Section 1.01	Definitions ..... 2
Section 1.02	Interpretation ..... 8
<b>ARTICLE II</b>	
<b>CONVEYANCE OF ENCUMBERED PROPERTY</b>	
Section 2.01	Grant ..... 9
<b>ARTICLE III</b>	
<b>REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE MORTGAGOR</b>	
Section 3.01	Title ..... 9
Section 3.02	Compliance with Law ..... 10
Section 3.03	Intentionally Deleted ..... 11
Section 3.04	Taxes Paid ..... 11
Section 3.05	Condition of Improvements ..... 11
Section 3.06	Options ..... 11
Section 3.07	Second Lien Credit Agreement ..... 11
Section 3.08	Payment of Taxes, Liens and Charges ..... 12
Section 3.09	Intentionally Deleted ..... 12
Section 3.10	Waste; Plans; Use ..... 12
Section 3.11	Insurance ..... 13
Section 3.12	Casualty; Restoration of Casualty Damage ..... 13
Section 3.13	Condemnation/Eminent Domain ..... 13
Section 3.14	Assignment of Leases and Rents ..... 14
Section 3.15	Restrictions on Transfers and Encumbrances ..... 15
Section 3.16	Security Agreement ..... 15
Section 3.17	Filing and Recording ..... 16
Section 3.18	Further Assurances ..... 16
Section 3.19	Additions to Encumbered Property ..... 16
Section 3.20	No Claims Against the Mortgagee ..... 17
Section 3.21	Environmental ..... 17
Section 3.22	Maintenance of Encumbered Property ..... 19
<b>ARTICLE IV</b>	
<b>DEFAULTS AND REMEDIES</b>	
Section 4.01	Events of Default ..... 20
Section 4.02	Demand for Payment ..... 20
Section 4.03	Rights to Take Possession, Operate and Apply Revenues ..... 20
Section 4.04	Right to Cure the Mortgagor's Failure to Perform ..... 21
Section 4.05	Right to a Receiver ..... 21
Section 4.06	Foreclosure and Sale ..... 22

# UNOFFICIAL COPY

## Table of Contents (cont.)

		<u>Page</u>
Section 4.07	Other Remedies .....	23
Section 4.08	Application of Sale Proceeds and Rents.....	23
Section 4.09	The Mortgagor as Tenant Holding Over.....	24
Section 4.10	Waiver of Appraisalment, Valuation, Stay, Extension and Redemption Laws. ....	24
Section 4.11	Discontinuance of Proceedings.....	24
Section 4.12	Suits to Protect the Encumbered Property .....	24
Section 4.13	Filing Proofs of Claim .....	25
Section 4.14	Possession by the Mortgagee.....	25
Section 4.15	Waiver. ....	25
Section 4.16	Remedies Cumulative.....	26

### ARTICLE V MISCELLANEOUS

Section 5.01	Partial Invalidity .....	26
Section 5.02	Notices.....	26
Section 5.03	Successors and Assigns .....	27
Section 5.04	Mortgagee.....	27
Section 5.05	Satisfaction and Cancellation. ....	29
Section 5.06	Other Second Lien Loan Documents.....	29
Section 5.07	Subrogation.....	30
Section 5.08	Mortgagee Powers .....	30
Section 5.09	Enforceability of Mortgage.....	30
Section 5.10	Amendments.....	30
Section 5.11	Applicable Law.....	30
Section 5.12	Waiver of Jury Trial.....	30

### ARTICLE VI LOCAL LAW PROVISIONS

Section 6.01	Inconsistencies in Terms.....	31
Section 6.02	Alabama Provisions.....	31
Section 6.03	Florida Provisions.....	31
Section 6.04	Illinois Provisions .....	32
Section 6.05	Indiana Provisions .....	32
Section 6.06	Kansas Provisions.....	33
Section 6.07	Kentucky Provisions.....	34
Section 6.08	Louisiana Provisions.....	34
Section 6.09	Massachusetts Provisions .....	35
Section 6.10	Michigan Provisions .....	36
Section 6.11	Minnesota Provisions.....	37
Section 6.12	New Jersey Provisions.....	38
Section 6.13	New York Provisions.....	38
Section 6.14	Oklahoma Provisions.....	39
Section 6.15	South Carolina Provisions .....	41
Section 6.16	Wisconsin Provisions.....	41

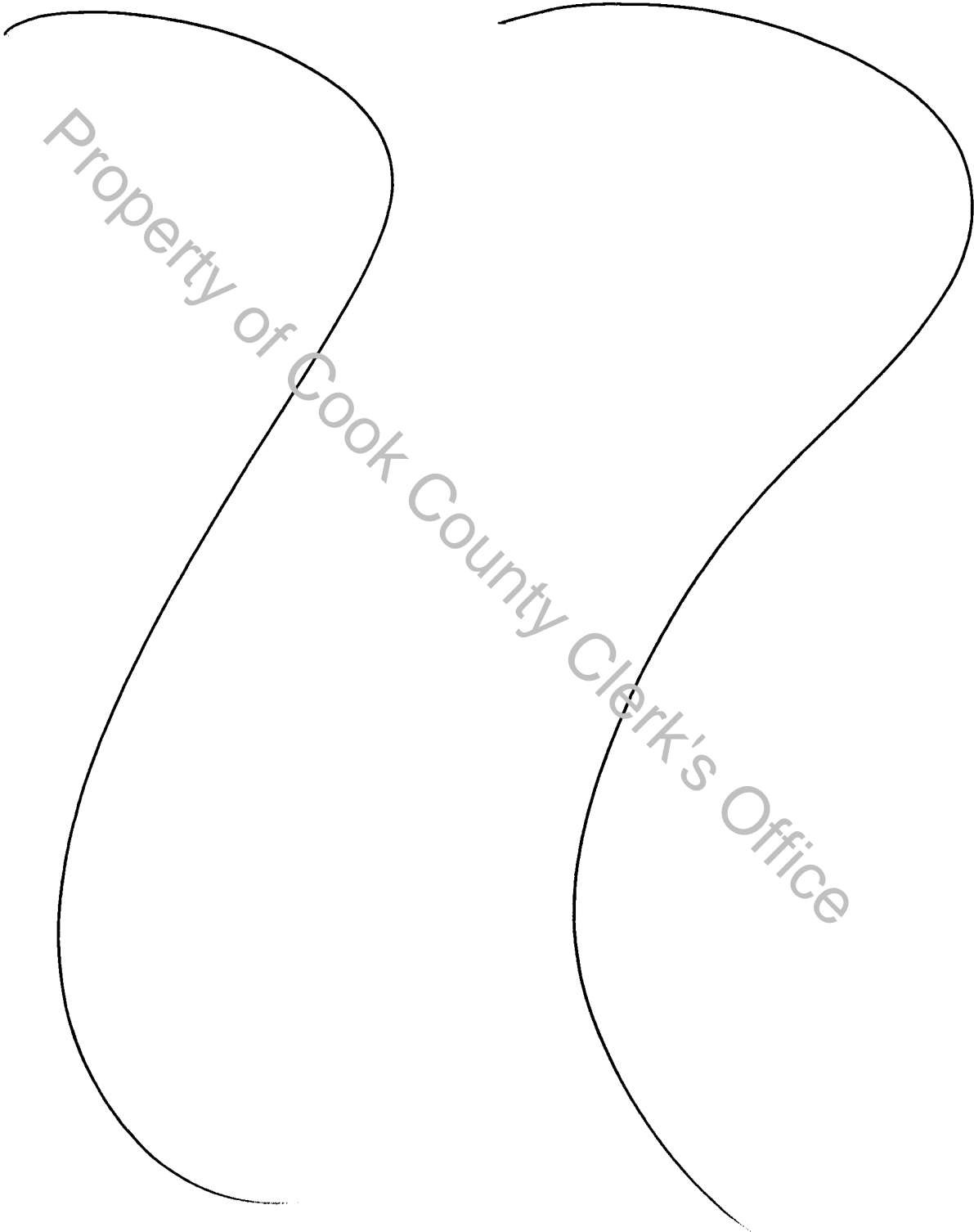
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## Table of Contents (cont.)

Page

**Exhibits:**

- Exhibit A - Legal Description
- Exhibit B - Title Commitments
- Exhibit C - Ground Lease



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## LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT

COLLATERAL IS OR INCLUDES FIXTURES

**THIS LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT** (as amended, supplemented or modified from time to time, this "Mortgage") is dated as of June 12, 2007 and is made by AMF BOWLING CENTERS, INC., a Virginia corporation, as mortgagor, having an office at 8100 AMF Drive, Mechanicsville, VA 23111 (the "Mortgagor"), to CREDIT SUISSE, CAYMAN ISLANDS BRANCH, as Second Lien Collateral Agent for the benefit of the Second Lien Credit Parties referred to in the Second Lien Credit Agreement (as defined below), having an office at Eleven Madison Avenue, New York, New York 10010 (in such capacity, together with its successors, substitutes and assigns, the "Mortgagee").

Kingpin Intermediate Corp., a Delaware corporation ("Holdings") and the AMF Bowling Worldwide, Inc., a Delaware corporation (the "Borrower"), have entered into a Second Lien Credit Agreement dated as of June 12, 2007 (as amended, restated, modified or supplemented from time to time and including any agreement extending the maturity of, refinancing or otherwise restructuring all or any portion of the obligations of Holdings and the Borrower under such agreement or any successor agreement, the "Second Lien Credit Agreement") among Holdings, the Borrower, the banks and other lending institutions from time to time party thereto (each a "Lender" and, collectively, the "Lenders"), Credit Suisse, Cayman Islands Branch, as Second Lien Administrative Agent (together with its successor or successors, the "Second Lien Administrative Agent").

Pursuant to the Second Lien Credit Agreement, the Lenders have agreed to extend credit to the Borrower in the form of Loans (as defined in the Second Lien Credit Agreement) in the aggregate principal amount of \$80,000,000 and having a final scheduled maturity date of June 12, 2013. The maximum principal amount of indebtedness that may be secured by this Mortgage is \$80,000,000.

The Lenders, the Second Lien Administrative Agent, each co-agent or sub-agent appointed by the Second Lien Administrative Agent from time to time pursuant to the Second Lien Credit Agreement, the Second Lien Collateral Agent, the Control Agent and each Indemnitee and their respective successors and assigns are herein referred to individually as a "Second Lien Credit Party" and collectively as the "Second Lien Credit Parties".

To induce the Second Lien Credit Parties to enter into the Second Lien Credit Agreement and the other Loan Documents referred to therein (collectively with the Second Lien Credit Agreement, the "Second Lien Loan Documents"), and as a condition precedent to the obligations of the Second Lien Credit Parties under the Second Lien Credit Agreement, Holdings and certain Subsidiaries of Holdings (each a "Subsidiary Guarantor" and, collectively, the "Subsidiary Guarantors" and, together with Holdings and each other person that becomes a guarantor and the respective successors and permitted assigns of each of the foregoing, the "Guarantors", and together with the Borrower, each a "Loan Party" and, collectively, the "Loan Parties") have agreed, jointly and severally, to provide a guaranty of all obligations of the Borrower and the other Loan Parties under or in respect of the Second Lien Loan Documents.

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The Mortgagor is a Subsidiary of Holdings and, accordingly is a "Loan Party". It will receive not insubstantial benefits from the credit accommodations made and to be made by the Second Lien Credit Parties under the Second Lien Loan Documents. To induce the Second Lien Credit Parties to enter into the Second Lien Loan Documents, the Mortgagor has agreed to mortgage, grant a lien on and a grant a security interest in the Encumbered Property (as hereinafter defined) to secure the Second Lien Obligations (as hereinafter defined).

Accordingly, the parties hereto agree as follows:

## ARTICLE I DEFINITIONS

**Section 1.01 Definitions.** Terms used herein without definition which are defined in the introductory section thereof or in the Second Lien Credit Agreement shall have the respective meanings set forth therein. The following additional terms, as used herein, have the following meanings:

"Capital Lease" of any Person means any lease of (or other arrangement conveying the right to use) property (whether real, personal or mixed) by such Person as lessee which would, in accordance with GAAP, be required to be accounted for as a capital lease on the balance sheet of such Person.

"Capital Lease Obligations" means, with respect to any Person, all obligations of such Person as lessee under Capital Leases, in each case taken at the amount thereof accounted for as liabilities in accordance with GAAP.

"Discharge of First Lien Obligations" means, except to the extent otherwise provided in Section 5.05 of the Intercreditor Agreement: (i) payment in full in cash of the principal of, reimbursement obligations with respect to and interest (including interest accruing (or which would, absent the commencement of any Insolvency or Liquidation Proceeding, accrue) on or after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest would be allowed in such Insolvency or Liquidation Proceeding) on all First Lien Credit Obligations (as defined in the Intercreditor Agreement) (other than contingent indemnification obligations); (ii) payment in full in cash of all other First Lien Finance Obligations (as defined in the Intercreditor Agreement) that are due and payable or otherwise accrued at or prior to the time such principal and interest are paid, including all obligations with respect to any Secured Derivatives Agreements and Secured Cash Management Agreements; (iii) termination or expiration of all commitments, if any, to extend credit that would constitute First Lien Finance Obligations; and (iv) termination or cash collateralization (in an amount and manner reasonably satisfactory to the First Lien Collateral Agent, but in no event in excess of 102% of the undrawn face amount of such letters of credit) of all letters of credit issued under the First Lien Loan Documents and all unmatured obligations under Secured Derivatives Agreements and Secured Cash Management Agreements.

"Encumbered Property" means:

- (i) all of the Mortgagor's right, title and interest in and to the leasehold interest, if any, in the parcel or parcels of land described on Exhibit A hereto (the "Land") and incorporated herein by this reference and the leasehold interest, if any, in the Land created by the Subject Lease (hereinafter defined), together with any after-acquired estate of the Mortgagor in the Land, and together with all rights appurtenant thereto, including without limitation, all strips and gores within or adjoining the Land, all estate, right, title, interest, claim or demand of the Mortgagor in the streets, roads, sidewalks, alleys and ways adjacent thereto (whether or not

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vacated and whether public or private and whether open or proposed), all easements over adjoining land granted by any easement agreements, covenants or restrictive agreements, all of the tenements, hereditaments, easements, reciprocal easement agreements, rights pursuant to any trackage agreement, rights to the use of common drive entries, rights-of-way and other rights, privileges and appurtenances thereunto belonging or in any way pertaining thereto, all reversions, remainders, dower and right of dower, curtesy and right of curtesy, all of the air space and right to use air space above such property, all transferable development rights arising therefrom or transferred thereto, all water and water rights and water rights applications (whether riparian, littoral, appropriative or otherwise, and whether or not appurtenant), all pumps, pumping plants, pipes, flumes and ditches thereunto appertaining, all rights and ditches for irrigation, all utility rights, sewer rights, and shares of stock evidencing the same, all oil, gas and other minerals and mineral substances (which term shall include all gypsum, anhydrite, coal, lignite, hydrocarbon or other fossil materials or substances, fissionable materials or substances and all other minerals of any kind or character, whether gaseous, liquid or hard minerals, whether similar or dissimilar to those named, whether now or hereafter found to exist and whether associated with the surface or mineral estate) in, on or under the Land or produced, saved or severed from the Land, all mineral, mining, gravel, oil, gas, hydrocarbon rights and other rights to produce or share in the production of anything related to such property, all drainage, crop, timber, agricultural, and horticultural rights with respect to such property, and all other appurtenances appurtenant to such property, including without limitation, any now or hereafter belonging or in any way appertaining thereto, and all claims or demands of the Mortgagor, either at law or in equity, in possession or expectancy, now or hereafter acquired, of, in or to the same (the Land and all of the foregoing being sometimes referred to herein collectively as the "Premises");

(ii) all of the Mortgagor's right, title, interest, powers, privileges and options in that certain lease more particularly described in Exhibit C attached hereto and by this reference made a part hereof and the leasehold estate created therein (hereinafter referred to as the "Ground Lease"), demising portions of the Land, any extensions, renewals, additions or substitutions thereof, all rights of the Mortgagor to renew, extend, supplement, amend, cancel or terminate the Lease, and any fee title or any other estate, title or interest in the foregoing acquired by the Mortgagor after the date hereof;

(iii) all of the Mortgagor's right, title and interest in and to all buildings, improvements, fixtures and other structures or improvements of any kind now or hereafter erected or located upon the Land, including, but not limited to, all building materials, water, sanitary and storm sewers, drainage, electricity, steam, gas, telephone and other utility facilities, parking areas, roads, driveways, walks and other site improvements; and all additions and betterments thereto and all renewals, substitutions and replacements thereof, owned or to be owned by the Mortgagor or in which the Mortgagor has or shall acquire an interest, to the extent of the Mortgagor's interest therein, now or hereafter erected or located upon the Land (collectively, the "Improvements");

(iv) all of the Mortgagor's right, title and interest in and to the following (collectively, the "Personal Property");

(A) all personal property and fixtures of every kind and nature whatsoever which are now or hereafter located on, attached to, incorporated in (regardless of where located) or affixed to the Premises or the Improvements or used or useful in connection with the ownership, construction, maintenance, repair, reconstruction, alteration, addition, improvement, operation, mining, use or occupancy of the Premises or the Improvements, including, without limitation, all goods, inventory,

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construction materials, equipment, mining equipment, tools, furniture, furnishings, fittings, fixtures, supplies, computers and computer programs, carpeting, draperies, blinds, window treatments, racking and shelving systems, heating, lighting, plumbing, ventilating, air conditioning, refrigerating, incinerating and/or compacting plants, systems and equipment, elevators, escalators, appliances, stoves, ranges, refrigerators, vacuum, window washing and other cleaning and building service systems, call systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials, cables, antennae, pipes, ducts, conduits, machinery, apparatus, motors, dynamos, engines, compressors, generators, boilers, stokers, furnaces, pumps, tanks, appliances, garbage systems and pest control systems and all of Mortgagor's present and future "goods", "equipment" and "fixtures" (as such terms are defined in the UCC) and other personal property, including without limitation any such personal property and fixtures which are leased, and all repairs, attachments, betterments, renewals, replacements, substitutions and accessions thereof and thereto; and

(B) all general intangibles now owned or hereafter acquired by the Mortgagor and relating to the design, development, operation, management and use of the Premises or the Improvements, including, but not limited to, all contract rights, trademarks, trade names, logos, symbols, books, records, chattel paper, claims, deposits, accounts, escrows and other rights relating to the name and style under which the Premises and the Improvements are operated;

provided, that in no event shall the Personal Property include any item which on any date constitutes an Excluded Contract or Excluded Equipment (as such terms are defined in the Security Agreement);

(v) all of Mortgagor's right, title and interest in and to all approvals, authorizations, building permits, certificates of occupancy, zoning variances, use permits, certifications, entitlements, exemptions, franchises, licenses, orders, variances, plat plan approvals, environmental approvals, air pollution authorities to construct and permits to operate, sewer and waste discharge permits, national pollutant discharge elimination system permits, water permits, zoning and land use entitlements and all other permits, whether now existing or hereafter issued to or obtained by or on behalf of the Mortgagor, with respect to the Premises or the Improvements and are given or issued by any governmental or quasi-governmental authority, whether now existing or hereafter created (as the same may be amended, modified, renewed or extended from time to time, and including all substitutions and replacements herefor), all rights under and pursuant to all construction, service, engineering, consulting, management, access, supply, leasing, architectural and other similar contracts with respect to the design, construction, management, operation, occupancy and/or use of the Premises and Improvements, all rights under all purchase agreements, sales agreements, option contracts, land contracts and contracts for the sale of oil, gas and other minerals or any of them, with respect to the Premises or the Improvements, architectural, engineering or construction drawings, plans, specifications, operating manuals, computer programs, computer data, maps, surveys, soil tests, feasibility studies, appraisals, environmental studies, engineering reports and similar materials with respect to the Premises and Improvements, and all payment and performance bonds or warranties or guarantees relating to the Premises or the Improvements, all to the extent assignable (collectively, the "Permits, Plans and Contracts");

(vi) all of Mortgagor's interest in and rights under all leases, occupancy agreements or licenses (under which the Mortgagor is landlord or licensor) and subleases (under which the Mortgagor is sublandlord), concession, franchise, management, mineral or other agreements relating to the use or occupancy of the Premises or the Improvements or any part



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thereof for any purpose, or the extraction or taking of any gas, oil, water or other minerals from the Premises, whether now or hereafter existing or entered into (including any use or occupancy arrangements created pursuant to Section 365(d) of the Bankruptcy Code or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or occupant of any portion of the Premises or the Improvements), and all guaranties thereof and all amendments, modifications, supplements, extensions or renewals thereof (collectively, the "Leases"), and all rents, issues, profits, revenues, charges, fees, receipts, royalties, proceeds from the sale of oil, gas and/or other minerals (whether gaseous, liquid or hard minerals, whether similar or dissimilar to those named and whether associated with the surface or mineral estate), accounts receivable, cash or security deposits and other deposits (subject to the prior right of the tenants making such deposits) and income, and other benefits now or hereafter derived from any portion of the Premises or the Improvements or the use or occupancy thereof (including any payments received pursuant to Section 502(b) of the Bankruptcy Code or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or other occupants of any portion of the Premises or the Improvements and all claims as a creditor in connection with any of the foregoing) and all payments of a similar nature, now or hereafter, including during any period of redemption, derived from the Premises or the Improvements or any other portion of the Encumbered Property and all proceeds from the cancellation, surrender, sale or other disposition of the Leases (collectively, the "Rents");

(vii) all of the Mortgagor's right, title and interest in and to all refunds or rebates of real and personal property taxes or charges in lieu of taxes, heretofore or now or hereafter assessed or levied against all or any of the Premises, the Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and Contracts, including interest thereon, and the right to receive the same, whether such refunds or rebates relate to fiscal periods before or during the term of this Mortgage;

(viii) all of the Mortgagor's right, title and interest in and to all insurance policies and the proceeds thereof, now or hereafter in effect with respect to all or any of the Premises, the Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and Contracts, including, without limitation, any and all title insurance proceeds, and all unearned premiums and premium refunds, accrued, accruing or to accrue under such insurance policies, and all awards made for any taking of or damage to all or any of the Premises, the Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and Contracts, by eminent domain, or by any purchase in lieu thereof, and all awards resulting from a change of grade of streets or for severance damages, and all other proceeds of the conversion, voluntary or involuntary, of all or any of the Premises, Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and Contracts, into cash or other liquidated claims, and all judgments, damages, awards, settlements and compensation (including interest thereon) heretofore or hereafter made to the present and all subsequent owners of the Premises, Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and Contracts, or any part thereof for any injury to or decrease in the value thereof for any reason;

(ix) all of the Mortgagor's right, title and interest in and to the following:

(A) all right, in the name and on behalf of the Mortgagor, to appear in and defend any action or proceeding brought with respect to all or any of the Premises, Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and

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Contracts, and to commence any action or proceeding to protect the interest of the Mortgagor in all or any of the Premises, Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and Contracts;

(B) all right and power to encumber further all or any of the Premises, Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and Contracts, or any part thereof;

(C) all rights, titles, interests, estates or other claims, both in law and in equity, which the Mortgagor now has or may hereafter acquire in any of the Premises, the Improvements, the Personal Property, the Leases, the Rents or the Permits, Plans and Contracts, or in and to any greater estate in all or any of the Premises, the Improvements, the Personal Property, the Leases, the Rents and the Permits, Plans and Contracts; and

(D) all property hereafter acquired or constructed by the Mortgagor of the type described above which shall forthwith, upon acquisition or construction thereof by the Mortgagor and without any act or deed by any party, become subject to the lien and security interest of this Mortgage as if such property were now owned by the Mortgagor and were specifically described in this Mortgage and were specifically conveyed or encumbered hereby; and

(x) all accessions, additions or attachments to, and proceeds or products of, any of the foregoing.

Anything contained in this Mortgage to the contrary notwithstanding, neither the term "Personal Property" nor the term "Encumbered Property" shall include (a) any intellectual property rights (including, without limitation, trade names, trademarks, logos and symbols) which are used by the Borrower generally throughout its business operations and not solely with respect to the Premises or the Improvements and (b) accounts arising from the ordinary course of operating the bowling and food and beverage operations at the Premises and the Improvements.

"Event of Default" means one or more Events of Default as such term is defined in the Second Lien Credit Agreement.

"Excluded Contract" means at any date any rights or interest of a Loan Party in, to or under any agreement, contract, license, instrument, document or other general intangible (referred to solely for purposes of this definition as a "Contract") to the extent that such Contract by the express terms of a valid and enforceable restriction in favor of a Person who is not a Group Company, (i) prohibits, or requires any consent or establishes any other condition for, an assignment thereof or a grant of a security interest therein by a Loan Party or (ii) would give any party to such Contract other than a Group Company an enforceable right to terminate its obligations thereunder; provided that rights to payment under any such Contract otherwise constituting an Excluded Contract by virtue of this definition shall be included in the Collateral to the extent permitted thereby or by Section 9-406 or Section 9-408 of the UCC, (iii) all Proceeds paid or payable to any Loan Party from any sale, transfer or assignment of such Contract and all rights to receive such Proceeds shall be included in the Collateral and (iv) the term "Excluded Contract" shall not include any rights or interest of a Loan Party in, to or under any Contract arising after the Closing Date which is material to the conduct of the business of a Loan Party or with respect to which a contravention or other violation caused or arising by its inclusion as Collateral under the Second Lien Security Agreement could reasonably be expected to have a Material Adverse Effect unless the Loan Party shall have used, or shall be diligently using, commercially reasonable and good

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faith efforts to obtain all requisite consents or approvals by the other party to such Contract of all of such Loan Party's right, title and interest thereunder to the Second Lien Collateral Agent or its designee.

"Excluded Equipment" means at any date any Equipment of a Loan Party which is subject to, or secured by, a Capital Lease Obligation or Purchase Money Debt which is permitted under Section 7.01(iii) of the Second Lien Credit Agreement if and to the extent that (i) the express terms of a valid and enforceable restriction in favor of a Person who is not a Group Company which is contained in the agreements or documents granting or governing such Capital Lease Obligation or Purchase Money Debt secured thereby and which is permitted to exist pursuant to Section 7.15 of the Second Lien Credit Agreement prohibits, or requires any consent or establishes any other conditions for, an assignment thereof, or a grant of a security interest therein, by a Loan Party and (iii) such restriction relates only to the asset or assets acquired by a Loan Party with the Proceeds of such Capital Lease Obligation or Purchase Money Debt; provided that all Proceeds paid or payable to any Loan Party from any sale, transfer or assignment or other voluntary or involuntary disposition of such Equipment and all rights to receive such Proceeds shall be included in the Collateral to the extent not otherwise required to be paid to the holder of the Capital Lease Obligation or Purchase Money Debt secured by such Equipment.

"Second Lien Obligations" means with respect to each Loan Party, without duplication:

(i) in the case of Borrower, all principal of and interest (including, without limitation, any interest which accrues after the commencement of any bankruptcy or insolvency proceeding with respect to the Borrower, whether or not allowed or allowable as a claim under any bankruptcy or insolvency proceeding) on any Loan made, or any Note issued pursuant to, the Second Lien Credit Agreement or any other Second Lien Loan Document;

(xi) all fees, expenses, indemnification obligations, foreign currency exchange obligations and other amounts of whatever nature now or hereafter payable by such Loan Party (including, without limitation, any amounts which accrue after the commencement of any bankruptcy or insolvency proceeding with respect to such Loan Party, whether or not allowed or allowable as a claim under any bankruptcy or insolvency proceeding) pursuant to the Second Lien Credit Agreement or any other Second Lien Loan Document;

(xii) all expenses of the Second Lien Administrative Agent, the Second Lien Collateral Agent or the Control Agent as to which one or more of them have a right to reimbursement by such Loan Party under Section 10.04 of the Second Lien Credit Agreement or under any other similar provision of any other Loan Document, including, without limitation, any and all sums advanced by the Second Lien Collateral Agent to preserve the Collateral or preserve its security interests in the Collateral to the extent permitted hereunder or under any Second Lien Loan Document;

(xiii) all amounts paid by any Indemnitee as to which such Indemnitee has the right to reimbursement by such Loan Party under Section 10.05 of the Second Lien Credit Agreement or under any other similar provision of any other Second Lien Loan Document; and

(xiv) in the case of each Guarantor, all amounts now or hereafter payable by such Guarantor and all other obligations or liabilities now existing or hereafter arising or incurred (including, without limitation, any amounts which accrue after the commencement of any bankruptcy or insolvency proceeding with respect to the Borrower, Holdings or such Guarantor, whether or not allowed or allowable as a claim under any bankruptcy or insolvency proceeding) on the part of such Guarantor pursuant to the Second Lien Credit Agreement, the Second Lien Guaranty or any other Second Lien Loan Document;

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together in each case with all renewals, modifications, consolidations or extensions thereof.

“Impositions” shall mean all taxes, water rates, sewer rents, fees, assessments, levies, utility charges, insurance premiums payable on any insurance the Mortgagee is required to maintain hereunder, amounts required to be paid to obtain or renew permits and other similar charges (whether or not required by a governmental body) which are now or hereafter assessed, levied or imposed against the Encumbered Property (or any part thereof) or the Mortgagee’s interest therein and all water rates, sewer rents, ground rents, maintenance charges and other charges now or hereafter assessed, levied or imposed against the Encumbered Property (or any part thereof) or the Mortgagee’s interest therein or incurred in the ownership, operation, occupancy, maintenance and use of the Encumbered Property.

“Lender” and “Lenders” have the respective meanings set forth in the introductory paragraphs hereof and shall include, without limitation, and any Issuing Lender in its capacity as such.

“Loan” means a Loan made under Section 2.01 of the Second Lien Credit Agreement.

“Minor Leases” means any minor lease, sublease, license or occupancy agreement of any portion of the Premises or Improvements (i) for a use that is supporting or ancillary to the primary use of the Premises or Improvements as a bowling center or such other primary use that a particular property is used for as of the date of this Mortgage (ii) which is excess or not necessary to Mortgagor’s business operations on the Premises or Improvements as a bowling center or such other primary use that a particular property is used for as of the date of this Mortgage.

“Person” means an individual, a corporation, a partnership, an association, a limited liability company, a trust or an unincorporated association or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“Purchase Money Debt” means Debt of the Borrower or any of its Subsidiaries incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property used in the business of the Borrower or such Subsidiary; provided that such Debt is incurred within 120 days after such property is acquired or, in the case of improvements, constructed.

“Subject Leases” means the leases described on Schedule A of the Title Commitments.

“Title Commitments” means the title commitments described on Exhibit B attached hereto.

“UCC” means at any time the Uniform Commercial Code as the same may from time to time be in effect in the state where the Premises are located, provided that, if, by reason of mandatory provisions of law, the validity, perfection or the effect of perfection or non-perfection of any security interest granted herein is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the state where the Premises are located then, as to the validity or perfection of such security interest, “UCC” shall mean the Uniform Commercial Code in effect in such other jurisdiction for purposes of the provisions hereof relating to such validity or perfection or effect of perfection or non-perfection.

**Section 1.02 Interpretation.** As used in this Mortgage, the singular shall include the plural as the context requires and the following words and phrases shall have the following meanings: (i) “including” shall mean “including but not limited to”; (ii) “provisions” shall mean “provisions, terms, covenants and/or conditions”; (iii) “lien” shall mean “lien, charge, encumbrance, security interest, mortgage, Mortgage”; (iv) “obligation” shall mean “obligation, duty, covenant and/or condition”; and (v) “any of the Encumbered Property” shall mean “the Encumbered Property or any part thereof or interest

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therein." Any act that the Mortgagee is permitted to perform hereunder may be performed at any time and from time to time by the Mortgagee or any person or entity designated by the Mortgagee. Any act which is prohibited to the Mortgagor hereunder is also prohibited to all lessees of any of the Encumbered Property. Each appointment of the Mortgagee as attorney-in-fact for the Mortgagor under this Mortgage is irrevocable, with power of substitution and coupled with an interest. Subject to the applicable provisions hereof, the Mortgagee has the right to refuse to grant its consent, approval or acceptance or to indicate its satisfaction, in its sole discretion, whenever such consent, approval, acceptance or satisfaction is required hereunder.

## ARTICLE II CONVEYANCE OF ENCUMBERED PROPERTY

**Section 2.01 Grant.** To secure the full and punctual payment of the Second Lien Obligations in accordance with the terms thereof, including the performance of all of the obligations of the Mortgagor hereunder, of Holdings and the Borrower under the Second Lien Credit Agreement and the other Second Lien Loan Documents, of Holdings and each Subsidiary Guarantor under its Guaranty and of each Second Lien Credit Party under any other Second Lien Loan Document, the Mortgagor hereby grants, bargains, sells, transfers, sets over, assigns and conveys as security, grants a security interest in, hypothecates, mortgages, pledges and sets over to the Mortgagee, the Encumbered Property, subject only to the Permitted Encumbrances.

TO HAVE AND HOLD the same, together with all privileges, hereditaments, easements and appurtenances thereunto belonging, to the Mortgagee and the Mortgagee's successors and assigns to secure the Second Lien Obligations; provided, always, and this instrument is upon the express condition that should the Second Lien Obligations be paid according to the tenor and effect thereof when the same shall be due and payable and should the Mortgagor timely and fully discharge its obligations hereunder, this Mortgage and the estate hereby granted shall cease and become void.

## ARTICLE III REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE MORTGAGOR

The Mortgagor agrees, covenants, represents and warrants as follows:

### **Section 3.01 Title.**

(a) The Mortgagor has good, insurable, fee simple title to, or a valid leasehold interest in, to the extent applicable, the Land and the Improvements. The Mortgagor has good and sufficient title to, or valid leasehold interests in, all of the other Encumbered Property. This Mortgage is and will remain a valid and enforceable Second Lien on, and security interest in, the Encumbered Property subject to no Liens other than the Liens under the First Lien Credit Agreement and the exceptions and encumbrances set forth on Schedule B of the Title Commitments (collectively, the "Permitted Encumbrances"). The Permitted Encumbrances are all permitted under Section 7.02(viii) of the Second Lien Credit Agreement.

(b) Except for the Ground Lease and except for the Minor Leases, there are no Leases affecting any portion of the Premises or Improvements to which Mortgagor is a party.

(c) The Mortgagor has good and the corporate power and authority to encumber or grant a security interest in the Encumbered Property. The possession of the Encumbered Property is peaceful and undisturbed and title hereto is not being disputed or questioned to the best of the

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Mortgagor's knowledge. The Mortgagor will forever warrant, defend and preserve its title to the Encumbered Property, the rights of the Mortgagee therein under this Mortgage and the validity and priority of the lien of this Mortgage thereon against the claims of all persons and parties except those having rights under the Permitted Encumbrances to the extent of those rights.

(d) This Mortgage, when duly recorded in the appropriate public records and when financing statements are duly filed in the appropriate public records, will create a valid, perfected and enforceable Second Lien upon and security interest in all the Encumbered Property. Subject in all cases to the terms of the Intercreditor Agreement, there will be no defenses or offsets to this Mortgage or to any of the Second Lien Obligations for so long as any portion of the Second Lien Obligations is outstanding.

(e) The Permitted Encumbrances do not and will not materially and adversely affect (i) the ability of the Mortgagor to perform its obligations under this Mortgage and the other Second Lien Loan Documents to which it is a party or (ii) the use of the Encumbered Property for the use currently being made thereon, the operation of the Encumbered Property as currently being operated.

(f) The Encumbered Property has adequate rights of access to public ways and is served by adequate utilities, water, sewer, sanitary sewer and storm drain facilities for its current use. All roads necessary for the use of the Encumbered Property for its current purpose have been completed and dedicated to public use and accepted by all governmental authorities or are the subject of access easements for the benefit of the Encumbered Property.

(g) Except to the extent that in the aggregate the same would not have a Material Adverse Effect, there are no pending or, to the knowledge of the Mortgagor, proposed special or other assessments for public improvements or otherwise affecting the Encumbered Property, nor, to the knowledge of the Mortgagor, are there any contemplated improvements to the Encumbered Property that may result in such special or other assessments.

(h) All parties furnishing labor and materials have been paid in full and, except for such liens or claims insured against by the policy of title insurance to be issued in connection with this Mortgage, there are no mechanics', laborers' or materialmen's liens or claims outstanding for work, labor or materials affecting the Encumbered Property, whether prior to, equal with or subordinate to the lien of this Mortgage.

(i) The Mortgagor is the owner of a valid and subsisting interest as lessee under the Ground Lease; the Ground Lease is in full force and effect; all rents presently due under the Ground Lease have been paid; the granting of this Mortgage upon the Encumbered Property does not constitute a default under the Ground Lease; and to the best of the Mortgagor's knowledge, there are no defaults under the Ground Lease.

**Section 3.02 Compliance with Law.** All of the Improvements and the use of the Encumbered Property comply with, and shall remain in compliance with, all applicable statutes, rules, regulations and private covenants now or hereafter relating to the ownership, construction, use or operation of the Encumbered Property, including all applicable statutes, rules and regulations pertaining to requirements for equal opportunity, antidiscrimination, fair housing, environmental protection, zoning and land use except for such non-compliance that would not have a Material Adverse Effect. The Improvements comply with, and shall remain in compliance with, applicable health, fire and building codes except for such non-compliance that would not have a Material Adverse Effect. To Mortgagor's knowledge, there is no evidence of any illegal activities relating to controlled substances on the Encumbered Property. All material certifications, permits, licenses and approvals, including, without limitation, certificates of completion and occupancy permits, which, to Mortgagor's knowledge, are

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required for the legal use, occupancy and operation of the Encumbered Property for its current use have been obtained and are in full force and effect except for such non-compliance that would not have a Material Adverse Effect. All of the Improvements comply with all material requirements of any applicable zoning and subdivision laws and ordinances, including without limitation, parking requirements except for such non-compliance that would not have a Material Adverse Effect.

**Section 3.03 Intentionally Deleted.**

**Section 3.04 Taxes Paid.** Except for taxes being contested by appropriate proceedings, the Mortgagor has paid all real estate taxes and assessments which have become due and payable in respect of the Encumbered Property, and the Mortgagor has no knowledge of any basis for additional assessments with respect to such taxes.

**Section 3.05 Condition of Improvements.**

(a) Except to the extent that in the aggregate the same would not have a Material Adverse Effect, the Encumbered Property has not been damaged by fire, water, wind or other cause of loss which has not been fully restored.

(b) Except to the extent that in the aggregate the same would not have a Material Adverse Effect, no part of any property subject to this Mortgage has been taken in condemnation or other like proceeding nor is any proceeding pending or known to be threatened for the partial or total condemnation or taking of the Encumbered Property.

**Section 3.06 Options.** No tenant, person, party, firm, corporation or other entity has an option to purchase the Encumbered Property, any portion thereof or any interest therein.

**Section 3.07 Second Lien Credit Agreement.**

(a) This Mortgage is given pursuant to the Second Lien Credit Agreement. Each and every term and provision of the Second Lien Credit Agreement (except for the governing law provisions thereof), including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties thereto shall be considered as if a part of this Mortgage.

(b) If any remedy or right of the Mortgagee pursuant hereto is acted upon by the Mortgagee or if any actions or proceedings (including any bankruptcy, insolvency or reorganization proceedings) are commenced in which the Mortgagee is made a party and is obliged to defend or uphold or enforce this Mortgage or the rights of the Mortgagee hereunder or the terms of any Lease, or if a condemnation proceeding is instituted affecting the Encumbered Property, the Mortgagor will pay all sums, including reasonable attorneys' fees and disbursements, actually incurred (not as imposed by statute) by the Mortgagee related to the exercise of any remedy or right of the Mortgagee pursuant hereto or for the expense of any such action or proceeding together with all statutory or other costs, disbursements and allowances, interest thereon from the date of demand for payment thereof at a rate equal to the default rate provided for in the Second Lien Credit Agreement (the "Default Rate"), and such sums and the interest thereon shall, to the extent permissible by law, be a lien on the Encumbered Property prior to any right, title to, interest in or claim upon the Encumbered Property attaching or accruing subsequent to the recording of this Mortgage and shall be secured by this Mortgage to the extent permitted by applicable law.

(c) Any payment of amounts due under this Mortgage not made on or before the due date for such payments shall accrue interest daily without notice from the due date until paid at the

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Default Rate, and such interest at the Default Rate shall be immediately due upon demand by the Mortgagee.

(d) In the event of a conflict between the terms of this Mortgage and the terms of the Second Lien Credit Agreement, the terms of the Second Lien Credit Agreement shall govern except with respect to matters relating choice of law and the other matters described in Articles IV and V of this Mortgage.

### **Section 3.08 Payment of Taxes, Liens and Charges.**

(a) Subject to Section 6.05 of the Second Lien Credit Agreement, the Mortgagor will pay and discharge from time to time prior to the time when the same shall become delinquent, and before any interest or penalty accrues thereon or attaches thereto, all taxes of every kind and nature, all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents, all vault charges, and all other public charges, and all service charges, common area charges, private maintenance charges, utility charges and all other private charges, whether of a like or different nature, imposed upon or assessed against the Encumbered Property or any part thereof or upon the Rents from the Encumbered Property or arising in respect of the occupancy, use or possession thereof.

(b) In the event of the passage of any state, Federal, municipal or other governmental law, order, rule or regulation subsequent to the date hereof (i) deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or in any manner changing or modifying the laws now in force governing the taxation of this Mortgage or debts secured by mortgages or deeds of trust (other than laws governing income, franchise and similar taxes generally) or the manner of collecting taxes thereon and (ii) imposing a tax to be paid by the Mortgagee, either directly or indirectly, on this Mortgage, the Second Lien Security Agreement or any other Second Lien Loan Documents or to require an amount of taxes to be withheld or deducted therefrom, the Mortgagor will promptly notify the Mortgagee of such event. In such event the Mortgagor shall (i) agree to enter into such further instruments as may be reasonably necessary or desirable to obligate the Mortgagor to make any applicable additional payments, and (ii) the Mortgagor shall make all such additional payments.

### **Section 3.09 Intentionally Deleted.**

### **Section 3.10 Waste; Plans; Use.**

(a) The Mortgagor will not commit any waste on the Encumbered Property or make any alteration to, or change in the use of, the Encumbered Property that will diminish the utility thereof for the operation of the business conducted thereon or increase the risk of fire or other hazard.

(b) To the extent the same exist on the date hereof or are obtained in connection with future permitted alterations, the Mortgagor shall maintain a complete set of final plans, specifications, blueprints and drawings for the Improvements either at the Encumbered Property or in a particular office at the headquarters of the Mortgagor to which the Mortgagee shall have access upon reasonable advance notice.

(c) Except to the extent the failure to do the same would not have a Material Adverse Effect, the Mortgagor shall cause the Premises and the Improvements to be used in compliance with all existing and future laws, codes, ordinances, rules, regulations, orders and decrees of governmental authorities and courts having jurisdiction over the Encumbered Property or the Mortgagor and the requirements of all Permits. The Mortgagor shall promptly notify the Mortgagee of any proposed zoning reclassification, variance, conditional or special use permit, subdivision plat or annexation affecting the



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Land. The Mortgagor shall at all times comply with in all material respects, and is currently in compliance in all material respects with, all of its obligations under all Leases, track agreements, easement agreements, access agreements, management contracts, pipeline agreements or other contracts or agreements affecting any portion of the Encumbered Property (collectively, the "Material Agreements") and under all other recorded restrictions, conditions, easements and covenants ("Restrictive Covenants") encumbering the Land and shall duly enforce its rights under all Restrictive Covenants encumbering other property for the benefit of the Land and/or the Improvements, except to the extent that the failure to do so it would not have a Material Adverse Effect. If the Mortgagor receives any written notice that any Material Agreement or Restrictive Covenant has been violated, then the Mortgagor shall promptly notify the Mortgagee and take such steps as the Mortgagee may reasonably require to correct such violation.

**Section 3.11 Insurance.** The Mortgagor will keep the Encumbered Property insured against such risks in the manner required by the Second Lien Credit Agreement. Certificates evidencing the amounts and effective dates of the coverages required by the Second Lien Credit Agreement shall be delivered to the Mortgagee upon request. All policies shall provide that the Mortgagee is an additional insured, as its interests may appear for the required policies, and a Mortgagee and/or loss payee under each of the required policies. All liability policies shall contain a waiver of subrogation against the Mortgagee.

**Section 3.12 Casualty; Restoration of Casualty Damage.** The Mortgagor shall give the Mortgagee prompt written notice of any fire or other casualty to all or any portion of the Encumbered Property (a "Casualty") if required under Section 6.06(b) of the Second Lien Credit Agreement. In the event of a Casualty, the proceeds, damages, awards, claims and rights of award (collectively, the "Insurance Proceeds") with respect to any such Casualty shall be paid to the Mortgagee to the extent required by Sections 2.08(b)(v) and 6.06(b) of the Second Lien Credit Agreement. If Insurance Proceeds are required to be paid to the Second Lien Administrative Agent pursuant to Sections 2.08(b)(v) and 6.06(b) of the Second Lien Credit Agreement, then payments made by the insurer or other party with respect to such Casualty shall be made directly in its entirety to the Mortgagee for remittance to the Second Lien Administrative Agent and the Insurance Proceeds relating to such Casualty shall be remitted by the Mortgagee to the Second Lien Administrative Agent for application in accordance with Sections 2.08(b)(v) and 6.06(b) of the Second Lien Credit Agreement. Otherwise, proceeds received by the Mortgagee from any Casualty shall be paid to Mortgagor within two Business Days after receipt.

**Section 3.13 Condemnation/Eminent Domain.** The Mortgagor shall notify the Mortgagee promptly upon obtaining knowledge of any pending or threatened condemnation or taking of all or substantially all of the Encumbered Property (a "Condemnation"). No settlement or compromise of any claim in connection with any such action or proceeding or transfer in lieu of a Condemnation shall be made without the consent of the Mortgagee, which consent shall not be unreasonably conditioned, delayed or withheld. In the event of a Condemnation, all proceeds of any such Condemnation or transfer in lieu thereof (collectively, the "Condemnation Proceeds") shall be paid to the Mortgagee to the extent required by Sections 2.08(b)(v) and 6.06(b) of the Second Lien Credit Agreement. If the Condemnation Proceeds are required to be paid to the Second Lien Administrative Agent pursuant to Section 3.03 of the Second Lien Credit Agreement, then all such Condemnation Proceeds will be paid directly to the Second Lien Administrative Agent and such Condemnation Proceeds shall be remitted by the Mortgagee to the Second Lien Administrative Agent for application in accordance with Section 2.08(b)(v) or 6.06(b) of the Second Lien Credit Agreement. Otherwise, any Condemnation Proceeds received by the Mortgagee shall be paid to the Mortgagor within five Business Days after request.

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## Section 3.14 Assignment of Leases and Rents.

(a) The Mortgagor hereby irrevocably, unconditionally and absolutely grants, transfers and assigns to the Mortgagee all of its right, title and interest in and to all Leases, together with any and all extensions and renewals thereof for purposes of securing and discharging the (i) the First Lien Finance Obligations (as defined in the Intercreditor Agreement) until Discharge of First Lien Obligations and (ii) the Second Lien Obligations thereafter. The Mortgagor has not assigned or executed any assignment of, and will not assign or execute any assignment of, any Lease or its respective Rents to anyone other than to the Mortgagee.

(b) Without the Mortgagee's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed), the Mortgagor will not (i) enter into, modify, amend, terminate or consent to the cancellation or surrender of any Lease other than Minor Leases, if such entrance, modification, amendment, termination or consent would, in the reasonable judgment of the Mortgagee, be adverse in any material respect to the Second Lien Credit Parties, the value of the Encumbered Property or the liens and security interests created by this Mortgage or (ii) consent to an assignment of any tenant's interest in any Lease or to a subletting thereof covering a material portion of the Encumbered Property, except, in each case, for Minor Leases and as may be permitted by this Mortgage, the Intercreditor Agreement or the other Second Lien Loan Documents.

(c) Subject in all cases to the terms of the Intercreditor Agreement, the Mortgagor has assigned and transferred to the Mortgagee all of the Mortgagor's right, title and interest in and to the Rents now or hereafter arising, it being intended that this assignment establish, subject to Section 3.14(d) below, an absolute transfer and assignment of all Rents and all Leases to the Mortgagee and not merely to grant a security interest therein. Such assignment to the Mortgagee shall not be construed to bind the Mortgagee to the performance of any of the covenants, conditions or provisions contained in any Lease or otherwise impose any obligation upon the Mortgagee. Notwithstanding the foregoing, the Mortgagor shall have the license and right, subject to automatic revocation as provided in Section 3.14(d) below, to operate and rent, lease or let all or any portion of the Encumbered Property and to collect, but not more than one month prior to accrual, all of the Rents. As provided in Section 3.14(d) below, the license granted by this Section 3.14(c) is subject to automatic revocation and thereafter the Mortgagee may, in the Mortgagor's name and stead (with or without first taking possession of any of the Encumbered Property personally or by receiver as provided herein) operate the Encumbered Property and rent, lease or let all or any portion of any of the Encumbered Property to any party or parties at such rental and upon such terms as the Mortgagee shall, in its sole discretion, determine, and may collect and have the benefit of all of such Rents arising from or accruing at any time thereafter or that may thereafter become due.

(d) Subject to the terms of the Intercreditor Agreement and as long as no Event of Default has occurred or is continuing, the license granted under Section 3.14(c) above shall be effective and the Mortgagee shall not exercise any of its rights under Section 3.14(c) above, and the Mortgagor shall receive and collect the Rents accruing under any Lease pursuant to the revocable license granted therein; but upon the occurrence of any Event of Default and the continuance thereof, the license granted under Section 3.14(c) above shall be deemed to be automatically revoked and shall terminate automatically without notice and the Mortgagee shall be entitled to all of the Rents without the necessity of the Mortgagee's taking any action whatsoever, and the Rents shall thereupon be deemed to be cash collateral for all purposes, including without limitation for purposes of Section 363 of the Bankruptcy Code. Upon the occurrence and during the continuance of any Event of Default, the Mortgagee may receive and collect all Rents and enter upon the Premises and Improvements through its officers, agents, employees or attorneys for such purpose and for the operation and maintenance thereof. Upon the occurrence and during any continuance of an Event of Default, the Mortgagor hereby irrevocably authorizes and directs each tenant, if any, and each successor, if any, to the interest of any tenant under

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any Lease, respectively, to rely upon any notice of a claimed Event of Default sent by the Mortgagee to any such tenant or any of such tenant's successors in interest, and thereafter to pay Rents to the Mortgagee without any obligation or right to inquire as to whether an Event of Default actually exists and even if notice to the contrary is received from the Mortgagor, who shall have no right or claim against any such tenant or successor in interest for any such Rents so paid to the Mortgagee. Each tenant or any of such tenant's successors in interest from whom the Mortgagee or any officer, agent, attorney or employee of the Mortgagee shall have collected any Rents, shall be authorized to pay Rents to the Mortgagor only after such tenant or any of such tenant's successors in interest shall have received written notice from the Mortgagee that the Event of Default is no longer continuing, which notice the Mortgagee shall be obligated to give if the Mortgagee determines in its reasonable discretion that such Event of Default is no longer continuing (or if ordered by a court or arbitrator with jurisdiction), unless and until a further notice of an Event of Default is given by the Mortgagee to such tenant or any of such tenant's successors in interest.

(c) The Mortgagee will not become a mortgagee in possession so long as it does not enter and take actual possession of the Encumbered Property. In addition, the Mortgagee shall not be responsible or liable for performing any of the obligations of the landlord under any Lease, for any waste by any tenants, or others, for any dangerous or defective conditions of any of the Encumbered Property, for negligence in the management, upkeep, repair or control of any of the Encumbered Property or any other act or omission by any other person, unless Mortgagee takes possession of the Encumbered Property.

(f) The Mortgagor shall furnish to the Mortgagee, within 30 days after a written request by the Mortgagee to do so, a written statement containing the names of all tenants, subtenants and concessionaires of the Premises or Improvements, the terms of any Lease, the space occupied and the rentals or license fees payable thereunder.

(g) If an Event of Default occurs, and if there is any applicable law requiring the Mortgagee to take actual or constructive possession of the Premises (or some action equivalent thereto, such as securing the appointment of a receiver) in order for the Mortgagee to "perfect" or "activate" its rights and remedies as set forth herein, the Mortgagor hereby waives the benefits of any such laws to the maximum extent allowable.

**Section 3.15 Restrictions on Transfers and Encumbrances.** Except as permitted hereby, by the Second Lien Credit Agreement, or by all or any of the other Second Lien Loan Documents, the Mortgagor shall not directly or indirectly sell, convey, alienate, assign, lease, sublease, license, mortgage, pledge, encumber or otherwise transfer, create, consent to or suffer the creation of any lien, charges or any form of encumbrance upon any interest in or any part of the Encumbered Property, or be divested of its title to the Encumbered Property or any interest therein in any manner or way, whether voluntarily or involuntarily (other than resulting from a taking), or engage in any common, cooperative, joint, time-sharing or other congregate ownership of all or part thereof; provided, however, that the Mortgagor may in the ordinary course of business, within reasonable commercial standards, (i) enter into easement agreements, licenses and similar agreements that relate to and/or benefit the operation of the Encumbered Property or that do not materially or adversely affect the use and operation of the same (including customary utility easements that service the Encumbered Property) and (ii) enter into, modify or amend any Minor Leases.

**Section 3.16 Security Agreement.** This Mortgage is both a mortgage and grant of real property and a grant of a security interest in personal property, and shall constitute and serve as a "security agreement" within the meaning of the UCC. The Mortgagor hereby grants unto the Mortgagee for the benefit of the Second Lien Credit Parties a security interest in and to all the Encumbered Property

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described in this Mortgage that is not real property, and substantially contemporaneously with the recording of this Mortgage, the Mortgagor has filed or will file UCC financing statements, and will file continuation statements prior to the lapse thereof, at the appropriate offices in the state in which the Premises are located and otherwise may be required or advisable to perfect the security interest granted by this Mortgage in all the Encumbered Property that is not real property. The Mortgagee shall have all rights with respect to the part of the Encumbered Property that is the subject of a security interest afforded by the UCC in addition to, but not in limitation of, the other rights afforded the Mortgagee hereunder. The Mortgagor agrees, to the extent permitted by law, that: (i) all of the goods described within the definition of the word "Personal Property" are or may become fixtures on the Land; (ii) this Mortgage upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Sections 9-334(e) and 9-502(b) of the UCC; (iii) the Mortgagor is the record owner of or holds a leasehold interest in, as applicable, the Premises; and (iv) the addresses of Mortgagor and Mortgagee are as set forth in Section 5.02 of this Mortgage. Additionally, this Mortgage shall constitute a financing statement covering fixtures and/or minerals or the like (including oil and gas) and/or accounts resulting from the sale thereof at the wellhead or minehead and, as such, shall be filed for record in the real estate records of each county in which the Land, or any part thereof, is located.

**Section 3.17 Filing and Recording.** The Mortgagor will cause this Mortgage, any other security instrument creating a security interest in or evidencing the lien hereof upon the Encumbered Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and to protect fully the liens and security interests of the Mortgagee hereby granted in and upon the Encumbered Property. The Mortgagor will pay all filing, registration or recording fees, and all expenses incidental to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Encumbered Property, and any instrument of further assurance and all Federal, state, county and municipal recording, documentary or intangible taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery and recording of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Encumbered Property or any instrument of further assurance.

**Section 3.18 Further Assurances.** Upon demand by the Mortgagee, the Mortgagor will, at the sole cost of the Mortgagor and without expense to the Mortgagee, do, execute, acknowledge and deliver all such further acts, deeds, conveyances, deeds of trust, assignments, notices of assignment, transfers and assurances as the Mortgagee shall from time to time reasonably require for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagor may be or may hereafter become bound to convey or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage, and on demand, the Mortgagor will also execute and deliver and hereby appoints the Mortgagee as its true and lawful attorney-in-fact and agent for the Mortgagor and in its name, place and stead, in any and all capacities, to execute and file to the extent it may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments reasonably required by the Mortgagee to evidence or perfect the liens and security interests hereby granted and to perform each and every act and thing requisite and necessary to be done to accomplish the same.

**Section 3.19 Additions to Encumbered Property.** All right, title and interest of the Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Encumbered Property hereafter acquired by or released to the Mortgagor or constructed, assembled or placed by the Mortgagor upon the Premises or the Improvements, and all conversions of the security constituted thereby, immediately upon such acquisition, release,

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construction, assembling, placement or conversion, as the case may be, and in each such case without any further mortgage, conveyance, assignment or other act by the Mortgagor, shall become subject to the liens and security interests of this Mortgage as fully and completely and with the same effect as though now owned by the Mortgagor and specifically described in the grant of the Encumbered Property above, but at any and all times the Mortgagor will execute and deliver to the Mortgagee any and all such further assurances, mortgages, conveyances or assignments thereof as the Mortgagee may reasonably require for the purpose of expressly and specifically subjecting the same to the liens and security interests of this Mortgage.

**Section 3.20 No Claims Against the Mortgagee.** Nothing contained in this Mortgage shall constitute any consent or request by the Mortgagee, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Encumbered Property or any part thereof, nor as giving the Mortgagor any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against the Mortgagee in respect thereof.

## **Section 3.21 Environmental.**

(a) As used in this Mortgage, (i) the term "Hazardous Materials" shall mean and include those elements, materials, compounds, mixtures or substances, including, but not limited to asbestos, polychlorinated biphenyls, petroleum, crude oil or any fraction or product thereof, which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (the "EPA") or the list of toxic pollutants designated by Congress or the United States Environmental Protection Agency or which are defined as hazardous, toxic, pollutant, infectious, flammable or radioactive by any other Federal, State, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any waste, substance, element, compound, mixture or material, as now or at any time hereafter in effect including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq., the Superfund Amendments and Reauthorization Act, 42 U.S.C. §§ 9601 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Rivers and Harbors Act of 1899, 33 U.S.C. §§ 401 et seq., the Occupational Safety and Health Act, 29 U.S.C. §§ 651-678, or rules and regulations of the EPA or any other state or federal department, board or agency, or any other agency or governmental board or entity having jurisdiction over any of the Encumbered Property (collectively, the "Environmental Laws"); and (ii) the term "Release" shall mean any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Materials into the indoor or outdoor environment or onto or from any property (including, without limitation, (i) the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Materials, and (ii) the movement of any Hazardous Materials through the air, soil, surface water, or groundwater).

(b) The Mortgagor represents and warrants that the Mortgagor has not used, will not use and, to the best of the Mortgagor's knowledge, no prior owner or current or prior tenant, subtenant, or other occupant of all or any part of the Encumbered Property has used or is using, Hazardous Materials on, from, to, under, within or affecting the Encumbered Property that (i) violates in any material way any Environmental Law, (ii) would give rise to any material obligations for any Remedial Work (hereinafter defined in subsection (d) of this Section 3.21) or (iii) poses a material threat to persons or the environment.

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(c) The Mortgagor represents and warrants that except as would not reasonably be expected to have a Material Adverse Effect, (i) no generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration or Release of any Hazardous Materials has occurred or is occurring on the Encumbered Property that violates any applicable Environmental Laws and that the Mortgagor will not permit or suffer any Release of any Hazardous Material on the Encumbered Property in violation of any applicable Environmental Laws, (ii) it has not received any written notice from any person or entity, public or private, claiming a violation of any Environmental Law or requiring Remedial Work (as hereinafter defined) with regard to the Encumbered Property and (iii) it has not received any notice of a Release of any Hazardous Materials on the soil, surface water, and ground water of, on or under the Encumbered Property in violation of any applicable Environmental Laws.

(d) If any governmental entity requires any investigation, site monitoring, containment, clean up, removal, restoration or other remedial work of any kind or nature (collectively, the "Remedial Work") because of, or in connection with, the current or future presence, suspected presence, Release or threatened Release of a Hazardous Material in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within the Encumbered Property (or any portion thereof), the Mortgagor shall within 30 days after written demand for performance thereof (or such applicable period of time as may be required under any applicable law, regulation, order or agreement) (commence and thereafter diligently prosecute to completion, all such Remedial Work unless Mortgagor is contesting in good faith, its obligation to perform such Remedial Work through appropriate proceedings. All costs and expenses of such Remedial Work shall be paid by the Mortgagor. If the Mortgagor shall fail to timely prosecute to completion such Remedial Work as required by law or to contest its obligation to do so, the Mortgagee may, but shall not be required to, cause such Remedial Work to be performed, consistent with sound commercial practices designed to protect the liens and security interests hereby created, and all costs and expenses thereof, or incurred in connection therewith, shall become part of the Second Lien Obligations.

(e) The Mortgagor shall provide the Mortgagee with prompt written notice of (i) any material Release or threatened Release of any Hazardous Material upon, under or from the Encumbered Property, except for such Release as occurs in the ordinary course of Mortgagor's business and in compliance with Environmental Law (ii) Mortgagor's receipt of any written notice from any federal, state, municipal or other governmental agency or authority relating or pertaining to any of Hazardous Materials located or Released in, on, upon, under, near or emanating from the Encumbered Property; and (iii) written notice of any governmental agency or authority incurring any cost or expense in connection with the assessment, containment, remediation or removal of any Hazardous Materials located or Released in, on, upon, under, near or emanating from the Encumbered Property, and shall promptly comply with its obligations under applicable law with respect thereto.

(f) The Mortgagor hereby agrees to protect, indemnify, defend, and hold harmless the Mortgagee and all other indemnified parties and their respective heirs, legal representatives, successors and assigns from and against any and all loss, damage, cost, charge, lien, debt, fine, penalty, injunctive relief, claim, demand, expense, suit, order, judgment, adjudication, liability, diminution of property value or injury to person, property or natural resources, including, but not limited to, court costs, reasonable attorneys' fees and reasonable consultant fees (all of the foregoing shall hereinafter be referred to collectively as a "Claim") arising out of, attributable to, relating to, which may accrue out of, or which may result from (i) a violation or alleged violation of any Environmental Laws in connection with the Encumbered Property by any person or entity or other source whether related or unrelated to the Mortgagor or (ii) the actual, threatened or alleged Release of Hazardous Materials (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting the Encumbered Property by any person or entity or other source, whether related or unrelated to

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the Mortgagor. The foregoing indemnity shall survive the cancellation or satisfaction of this Mortgage, the satisfaction of the Second Lien Obligations, the foreclosure or conveyance in lieu of foreclosure of all or any part of the Encumbered Property or the exercise by the Mortgagee of any of the remedies available under this Mortgage or any of the other Second Lien Loan Documents. Notwithstanding the foregoing, the obligation to indemnify any indemnified party under this Section 3.21 shall not apply in respect of any loss, claim, damage or liability to the extent that a court of competent jurisdiction shall have determined by final and nonappealable judgment that such loss, claim, damage or liability resulted from (i) such indemnified party's gross negligence or willful misconduct or (ii) a Hazardous Substance introduced to the Encumbered Property by any indemnified party after Mortgagee takes possession of the Encumbered Property, whether by foreclosure or otherwise.

(g) The Mortgagor agrees that the Mortgagee or any agent or representative acting on behalf of the Mortgagee may (but shall not be obligated to) enter upon the Premises and the Improvements at any time, after the occurrence of an Event of Default, to conduct such inspections and tests, at the Mortgagor's sole cost and expense, as may be desired by the Mortgagee to determine compliance with Environmental Laws. If any such inspections or tests reveal facts or circumstances that are required to be reported by Mortgagor to Governmental Authorities under applicable laws, then Mortgagor agrees to report those facts and circumstances in accordance with applicable laws.

**Section 3.22 Maintenance of Encumbered Property.** The Mortgagor shall cause the Encumbered Property to be maintained as required by Section 6.07 of the Second Lien Credit Agreement.

**Section 3.23 Leasehold Interest**

(a) The Mortgagor shall (i) perform and observe all material terms required to be performed and observed by the Mortgagor under the Ground Lease, (ii) notify the Mortgagee promptly after the Mortgagor receives written notice of any default under the Ground Lease by the Mortgagor or the lessor under the Ground Lease (the "Ground Lessor"), and (iii) promptly cause a copy of each such notice given by such Ground Lessor to the Mortgagee to be delivered to the Mortgagee.

(b) The Mortgagor shall not surrender its interest under the Ground Lease, nor cancel the Ground Lease, without the prior written consent of the Mortgagee.

(c) The fee title to the property demised by the Ground Lease and the leasehold estate created by the Ground Lease shall not merge, but shall always remain separate and distinct, notwithstanding the union of the aforesaid estates either in the Ground Lessor or the Mortgagor under the Ground Lease or in a third party by purchase or otherwise, unless the Mortgagee shall, at its option, execute and record a document evidencing its intent to merge the estates. If the Mortgagor acquires the fee title or any other estate, title or interest in any Encumbered Property, this Mortgage shall, to the fullest extent permitted by applicable law, attach to, be a lien upon and spread to the fee title or such other estate so acquired, and such fee title or other estate shall, without further assignment, mortgage or conveyance, become and be subject to the lien of and covered by this Mortgage. The Mortgagor shall notify the Mortgagee of any such acquisition by the Mortgagor and, on written request by the Mortgagee, shall cause to be executed and recorded all such other and further assurances or other instruments in writing as may be reasonably required to carry out the intent and meaning hereof.

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## ARTICLE IV DEFAULTS AND REMEDIES

**Section 4.01 Events of Default.** It shall be an Event of Default under this Mortgage if any Event of Default (as defined in the Second Lien Credit Agreement) shall exist under the Second Lien Credit Agreement.

**Section 4.02 Demand for Payment.** Upon the occurrence of any Event of Default and during the continuance thereof, in addition to any other rights and remedies the Mortgagee may have pursuant to the Collateral Documents, the Intercreditor Agreement or as provided at law or in equity, and without limitation, the Second Lien Obligations and all other amounts payable with respect to the Loans, the Second Lien Credit Agreement, the Guaranty, this Mortgage and the other Second Lien Loan Documents shall become due and payable as provided in the Second Lien Credit Agreement and the Intercreditor Agreement. Subject in all cases to the Intercreditor Agreement, the Mortgagor shall pay to the Mortgagee upon demand all such amounts and such further amounts as shall be reasonably incurred (without regard to statutory presumption) to cover the costs and expenses of collection, including reasonable attorneys' fees, disbursements and expenses incurred by the Mortgagee. The Mortgagor hereby waives notice of presentment, demand, protest, acceleration and notice of acceleration. In case the Mortgagor shall fail forthwith to pay such amounts or any amounts due under the Second Lien Credit Agreement, the Guaranty or any provision of this Mortgage upon the Mortgagee's demand, the Mortgagee, in addition to any other rights or remedies provided herein or at law or equity, shall be entitled and empowered to institute an action or proceedings at law or in equity as advised by counsel for the collection of the sums so due and unpaid, to prosecute any such action or proceedings to judgment or final decree, to enforce any such judgment or final decree against the Mortgagor and to collect, in any manner provided by law, all moneys adjudged or decreed to be payable.

**Section 4.03 Rights to Take Possession, Operate and Apply Revenues.** Subject to the rights of the First Lien Collateral Agent under the First Lien Collateral Documents and the other First Lien Finance Documents and in all cases to the terms of the Intercreditor Agreement:

(a) If an Event of Default shall occur and be continuing, the Mortgagor shall, upon demand of the Mortgagee, forthwith surrender to the Mortgagee actual possession of the Encumbered Property and, if and to the extent permitted by applicable law, the Mortgagee itself, or by such officers or agents as it may appoint, may then enter and take possession of all the Encumbered Property with or without the appointment of a receiver or an application therefor, exclude the Mortgagor and its agents and employees wholly therefrom, and have access to the books, papers and accounts of the Mortgagor.

(b) If the Mortgagor shall for any reason fail to surrender or deliver the Encumbered Property or any part thereof after such demand by the Mortgagee, the Mortgagee may obtain a judgment or decree conferring upon the Mortgagee the right to immediate possession or requiring the Mortgagor to deliver immediate possession of the Encumbered Property to the Mortgagee, to the entry of which judgment or decree the Mortgagor hereby specifically consents. The Mortgagor will pay to the Mortgagee, upon demand, all reasonable expenses of obtaining such judgment or decree, including compensation to the Mortgagee's attorneys (for reasonable fees actually incurred (not as imposed by statute)) and agents with interest thereon at the Default Rate; and all such expenses and compensation shall, until paid, be secured by this Mortgage.

(c) If an Event of Default shall occur and be continuing, the Mortgagee may hold, store, use, operate, manage and control the Encumbered Property, conduct the business thereof and, from time to time, (i) make all necessary, proper and reasonable maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon, (ii) purchase or otherwise acquire



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additional fixtures, personalty and other property, (iii) insure or keep the Encumbered Property insured, (iv) manage and operate the Encumbered Property and exercise all the rights and powers of the Mortgagor to the same extent as the Mortgagor could in its own name or otherwise with respect to the same or (v) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to the Mortgagee, all as may from time to time be directed or determined by the Mortgagee to be in its best interest. Regardless of whether or not the Mortgagee has entered or taken possession, the Mortgagee may collect and receive all the Rents, issues, profits and revenues from the Encumbered Property, including those past due as well as those accruing thereafter, and, after deducting (i) all expenses of taking, holding, managing and operating the Encumbered Property (including compensation for the services of all persons employed for such purposes), (ii) the costs of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions, (iii) the costs of insurance (iv) such taxes, assessments and other similar charges as the Mortgagee may at its option pay, (v) other proper charges upon the Encumbered Property or any part thereof and (vi) the compensation, expenses and disbursements of the attorneys and agents of the Mortgagee, the Mortgagee shall apply the remainder of the moneys and proceeds so received first to the payment of the Mortgagee for the payment in full and satisfaction of the Second Lien Obligations, and second, if there is any surplus, to the Mortgagor, subject to the entitlement of others thereto under applicable law.

(d) Whenever, before any sale of the Encumbered Property under Section 4.06 hereof, all Second Lien Obligations that are then due shall have been paid and all Events of Default fully cured, the Mortgagee will surrender possession of the Encumbered Property back to the Mortgagor, its successors or assigns. The same right of taking possession shall, however, arise again if any subsequent Event of Default shall occur and be continuing.

**Section 4.04 Right to Cure the Mortgagor's Failure to Perform.** Subject in all cases to the terms of the Intercreditor Agreement, if an Event of Default shall occur and be continuing, the Mortgagee may pay, perform or observe the same, and all payments made or costs or expenses incurred by the Mortgagee in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by the Mortgagor to the Mortgagee with interest thereon at the Default Rate. The Mortgagee shall make the determination as to the necessity for any such actions and of the amounts to be paid. Subject to the notice provisions of the first sentence of this Section 4.04, the Mortgagee is hereby empowered to enter and to authorize others to enter upon the Premises or the Improvements or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without having any obligation to so perform or observe and without thereby becoming liable to the Mortgagor, to any person in possession holding under the Mortgagor or to any other person.

**Section 4.05 Right to a Receiver.** Subject in all cases to the terms of the Intercreditor Agreement, if an Event of Default shall occur and be continuing, the Mortgagee, upon application to a court of competent jurisdiction, shall be entitled as a matter of right to the appointment of a receiver to take possession of and to operate the Encumbered Property and to collect and apply the Rents. The Mortgagor hereby consents to such appointment and acknowledges and agrees that the Mortgagee shall be entitled to such appointment without notice and without regard for the adequacy of security for the Second Lien Obligations or the solvency of the Mortgagor or any party liable for the Second Lien Obligations, subject to applicable law. The receiver shall have all of the rights and powers permitted under the laws of the state wherein the Encumbered Property is located. The Mortgagor will pay to the Mortgagee upon demand all expenses, including receiver's fees, attorneys' fees and disbursements that are actually incurred (not as imposed by statute), costs and agent's compensation incurred pursuant to the provisions of this Section 4.05; and all such expenses shall be secured by this Mortgage and shall be, without demand, immediately repaid by the Mortgagor to the Mortgagee with interest thereon at the Default Rate.

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**Section 4.06 Foreclosure and Sale.** Subject to the rights of the First Lien Collateral Agent under the First Lien Collateral Documents and the other First Lien Finance Documents and in all cases to the terms of the Intercreditor Agreement:

(a) If an Event of Default shall occur and be continuing, the Mortgagee may elect to sell the Encumbered Property or any part of the Encumbered Property by exercise of the power of foreclosure or of sale granted to the Mortgagee by applicable law, this Mortgage or any other Collateral Document. In such case, the Mortgagee may commence a civil action to foreclose this Mortgage, in accordance with applicable law, to satisfy any Secured Obligation. The Mortgagee or an officer appointed by a judgment of foreclosure to sell the Encumbered Property, may sell all or such parts of the Encumbered Property as may be chosen by the Mortgagee at the time and place of sale fixed by it in a notice of sale, either as a whole or in separate lots, parcels or items as the Mortgagee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder. The Mortgagee or an officer appointed by a judgment of foreclosure to sell the Encumbered Property may postpone any foreclosure or other sale of all or any portion of the Encumbered Property by public announcement at such time and place of sale, and from time to time as permitted by applicable law thereafter may postpone such sale by public announcement or subsequently noticed sale. Except as otherwise required by the Intercreditor Agreement or applicable law, without further notice, the Mortgagee or an officer appointed to sell the Encumbered Property may make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale. Any person, including the Mortgagor or the Mortgagee or any designee or affiliate thereof, may purchase any portion of the Encumbered Property at such sale. If the Mortgagee, or any affiliate of the Mortgagee, is the highest bidder at any foreclosure sale, the Mortgagee may credit the Second Lien Obligations for the amount of the Mortgagee's bid in lieu of a cash payment. Mortgagor authorizes and empowers the Mortgagee to execute and deliver to the purchaser or purchasers at any such foreclosure sale, good and sufficient deed(s) and/or bill(s) of sale of the Encumbered Property, or the part thereof foreclosed upon.

(b) The Encumbered Property may be sold subject to unpaid taxes and the Permitted Encumbrances, and after deducting all the costs, fees and expenses of the Mortgagee, including, without limitation, costs of evidence of title in connection with the sale, the Mortgagee or an officer that makes any sale shall apply the proceeds of sale in the manner set forth in Section 4.08 hereof.

(c) Any foreclosure or other sale of less than the whole of the Encumbered Property or any defective or irregular sale made hereunder shall not exhaust the power of foreclosure or of sale provided for herein; and subsequent sales may be made hereunder until the Second Lien Obligations have been satisfied, or the entirety of the Encumbered Property has been sold.

(d) If an Event of Default shall occur and be continuing, the Mortgagee may instead of, or in addition to, exercising the rights described in Section 4.06(a) above and either with or without entry or taking possession as herein permitted, proceed by a suit or suits in law or in equity or by any other appropriate proceeding or remedy (i) to specifically enforce payment of some or all of the terms of the Second Lien Loan Documents or the performance of any term, covenant, condition or agreement of this Mortgage or any other right or (ii) to pursue any other remedy available to it, at law or in equity, all as the Mortgagee shall determine most effectual for such purposes.

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**Section 4.07 Other Remedies.** Subject to the rights of the First Lien Collateral Agent under the First Lien Collateral Documents and the other First Lien Finance Documents and in all cases to the terms of the Intercreditor Agreement:

(a) In case an Event of Default shall occur and be continuing, the Mortgagee may also exercise, to the extent not prohibited by applicable law, any or all of the remedies available to a secured party under the UCC, including, to the extent not prohibited by applicable law, the following:

(i) in the case of personal property, exercise those rights and remedies under Article V of the Security Agreement;

(ii) to make such payments and do such acts as the Mortgagee may deem necessary to protect its security interest in the Personal Property including paying, purchasing, contesting or compromising any encumbrance, charge or lien that is prior or superior to the security interest granted hereunder, and, in exercising any such powers or authority, paying all expenses incurred in connection therewith; or

(iii) to enter upon any or all of the Premises or Improvements to exercise the Mortgagee's rights hereunder.

(b) In connection with a sale of the Encumbered Property and the application of the proceeds of sale as provided in Section 4.03 of this Mortgage, the Mortgagee shall be entitled to enforce payment of and to receive up to the principal amount of the Second Lien Obligations, plus all other charges, payments and costs due under this Mortgage, and to recover a deficiency judgment for any portion of the aggregate principal amount of the Second Lien Obligations remaining unpaid, with interest.

**Section 4.08 Application of Sale Proceeds and Rents.** Subject to the rights of the First Lien Collateral Agent under the First Lien Collateral Documents and the other First Lien Finance Documents and in all cases to the terms of the Intercreditor Agreement:

(a) After any foreclosure sale of all or any of the Encumbered Property, the Mortgagee shall receive the proceeds of sale, no purchaser shall be required to see to the application of the proceeds, and the Mortgagee shall apply the proceeds of the sale together with any Rents that may have been collected and any other sums that then may be held by the Mortgagee under this Mortgage shall be paid (i) prior to the occurrence of Discharge of First Lien Finance Obligations, over to the First Lien Administrative Agent for application as provided for in Section 8.03 of the First Lien Credit Agreement and (ii) thereafter, over to the Second Lien Administrative Agent for application as provided for in Section 8.03 of the Second Lien Credit Agreement. The Collateral Agent may make distributions hereunder in cash or in kind or, on a ratable basis, in any combination thereof.

(b) For purposes of applying payments received in accordance with this Section 4.08, the Mortgagee shall be entitled to rely upon the Second Lien Administrative Agent under the Second Lien Credit Agreement and shall have no liability to any Second Lien Credit Party or any Second Lien Credit Party for actions taken in reliance on such information except in the case of its gross negligence or willful misconduct. Unless it has actual knowledge (including by way of written notice from a Lender) to the contrary, each of the Second Lien Administrative Agent and each Representative, in furnishing information pursuant to the preceding sentence, and the Mortgagee, in acting hereunder, shall be entitled to assume that no Secondary Obligations are outstanding. All distributions made by the Mortgagee pursuant to this Section shall be final (except in the event of manifest error), and the Mortgagee shall have no duty to inquire as to the application by the Second Lien Credit Parties of any amounts distributed to them.

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(c) It is understood that nothing contained in this Mortgage shall exculpate the Mortgagor as to, or otherwise limit the liability of the Mortgagor for, any deficiency between the amount of the proceeds of the Encumbered Property and the amount of the Second Lien Obligations, unless otherwise expressly provided in this Mortgage or any of the other Second Lien Loan Documents.

(d) Except as required by applicable law and subject to the Second Lien Credit Agreement, the Mortgagee shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Mortgage. Upon any sale of the Encumbered Property by the Mortgagee (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the Mortgagee or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Encumbered Property so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Mortgagee or such officer or be answerable in any way for the misapplication thereof.

**Section 4.09 The Mortgagor as Tenant Holding Over.** If the Mortgagor remains in possession of any of the Encumbered Property after any foreclosure sale by the Mortgagee without the written agreement of Mortgagee, at the Mortgagee's election the Mortgagor shall be deemed a tenant holding over and shall forthwith surrender possession to the purchaser or purchasers at such sale or be summarily dispossessed or evicted according to provisions of law applicable to tenants holding over.

**Section 4.10 Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws.**

(a) The Mortgagor will not object to any sale of the Encumbered Property pursuant hereto and conducted in compliance with applicable law, and for itself and all who may claim under it, the Mortgagor waives, to the extent that it lawfully may, all right to have the Encumbered Property marshaled or to have the Encumbered Property sold as separate estates, parcels, tracts or units in the event of any foreclosure of this Mortgage.

(b) To the full extent permitted by the law of the state wherein the Encumbered Property is located or other applicable law, neither the Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, homestead-exemption or redemption laws now or hereafter in force in order to prevent or hinder the enforcement or foreclosure of this Mortgage, the absolute sale of the Encumbered Property or the final and absolute putting of the purchasers into possession thereof immediately after any sale; and the Mortgagor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully do so, the benefit of all such laws and any and all right to have the assets covered by the security interest created hereby marshaled upon any foreclosure of this Mortgage.

**Section 4.11 Discontinuance of Proceedings.** In case the Mortgagee shall proceed to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall be discontinued or abandoned for any reason, or shall be determined adversely to the Mortgagee, then and in every such case the Mortgagor and the Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Mortgagee shall continue as if no such proceeding had been taken.

**Section 4.12 Suits to Protect the Encumbered Property.** The Mortgagee shall have power (i) to institute and maintain suits and proceedings to prevent any impairment of the Encumbered Property by any acts which may be unlawful or in violation of this Mortgage, (ii) to preserve or protect its interest in the Encumbered Property and in the Rents arising therefrom and (iii) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that

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may be unconstitutional or otherwise invalid if the enforcement of or compliance with such enactment, rule or order would impair the security or be prejudicial to the interest of the Mortgagee hereunder.

**Section 4.13 Filing Proofs of Claim.** In case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Mortgagor, the Mortgagee shall, to the extent permitted by applicable law, be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Mortgagee allowed in such proceedings for the Second Lien Obligations secured by this Mortgage at the date of the institution of such proceedings and for any interest accrued, late charges and additional interest or other amounts due or that may become due and payable hereunder after such date.

**Section 4.14 Possession by the Mortgagee.** Notwithstanding the appointment of any receiver, liquidator or trustee of the Mortgagor, any of its property or the Encumbered Property, the Mortgagee shall be entitled, to the extent not prohibited by applicable law, to remain in possession and control of all parts of the Encumbered Property now or hereafter granted under this Mortgage in accordance with the terms hereof and applicable law.

**Section 4.15 Waiver.**

(a) No delay or failure by the Mortgagee to exercise any right, power or remedy accruing upon any breach or Event of Default shall exhaust or impair any such right, power or remedy or be construed to be a waiver of any such breach or Event of Default or acquiescence therein; and every right, power and remedy given by this Mortgage to the Mortgagee may be exercised from time to time and as often as may be deemed expedient by the Mortgagee. No consent or waiver by the Mortgagee to or of any breach or default by the Mortgagor in the performance of the Second Lien Obligations shall be deemed or construed to be a consent or waiver to or of any other breach or Event of Default in the performance of the same or any other Second Lien Obligations by the Mortgagor hereunder. No failure on the part of the Mortgagee to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall constitute a waiver by the Mortgagee of its rights hereunder or impair any rights, powers or remedies consequent on any future Event of Default by the Mortgagor.

(b) Even if the Mortgagee (i) grants some forbearance or an extension of time for the payment of any sums secured hereby, (ii) takes other or additional security for the payment of any sums secured hereby, (iii) waives or does not exercise some right granted herein or under the Collateral Documents, (iv) releases a part of the Encumbered Property from this Mortgage, (v) agrees to change some of the terms, covenants, conditions or agreements of any of the Collateral Documents, (vi) consents to the filing of a map, plat or replat affecting the Premises, (vii) consents to the granting of an easement or other right affecting the Premises or (viii) makes or consents to an agreement subordinating the Mortgagee's lien on the Encumbered Property hereunder; no such act or omission shall preclude the Mortgagee from exercising any other right, power or privilege herein granted or intended to be granted in the event of any breach or Event of Default then made or of any subsequent default; nor, except as otherwise expressly provided in an instrument executed by the Mortgagee, shall this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or part of the Encumbered Property, the Mortgagee is hereby authorized and empowered to deal with any vendee or transferee with reference to the Encumbered Property secured hereby, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings.

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**Section 4.16 Remedies Cumulative.** No right, power or remedy conferred upon or reserved to the Mortgagee by this Mortgage is intended to be exclusive of any other right, power or remedy, and each and every such right, power and remedy shall be cumulative and concurrent and in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

## ARTICLE V MISCELLANEOUS

**Section 5.01 Partial Invalidity.** If any provision hereof or of any of the other Second Lien Loan Documents is invalid or unenforceable in any jurisdiction or under any circumstances, the other provisions hereof or of those Second Lien Loan Documents shall remain in full force and effect in such jurisdiction and the remaining provisions hereof will be liberally construed in favor of the Mortgagee in order to carry out the provisions hereof and of such other Second Lien Loan Documents. The invalidity of any provision of this Mortgage in any jurisdiction or under any circumstances will not affect the validity or enforceability of any such provision in any other jurisdiction or under any other circumstances. If any lien, encumbrance or security interest evidenced or created by this Mortgage is invalid or unenforceable, in whole or in part, as to any part of the Second Lien Obligations, or is invalid or unenforceable, in whole or in part, as to any part of the Encumbered Property, such portion, if any, of the Second Lien Obligations as is not secured by all of the Encumbered Property hereunder shall be paid prior to the payment of the portion of the Second Lien Obligations and shall, unless prohibited by applicable laws or unless Mortgagee, in its sole and absolute discretion, otherwise elects, be deemed to have been first paid on and applied to payment in full of the unsecured or partially secured portion of the Second Lien Obligations, and the remainder to the secured portion of the Second Lien Obligations.

### Section 5.02 Notices.

(a) Unless otherwise specified herein, all notices, demands, requests and other communications to any party hereunder shall be in writing (including facsimile transmission) or (subject to subsection (c) below) electronic mail address specified for notices and shall be given to such party (i) at its address set forth below or (ii) such other address or facsimile number as the party entitled to such notice shall have specified by at least ten days' prior notice given to the other parties in the manner provided herein.

(i) To the Mortgagee:

Credit Suisse, Cayman Islands Branch  
Eleven Madison Avenue  
New York, New York 10010  
Attn: David Dodd

with a copy to:

Brian D. Murphy, Esq.  
Fried, Frank, Harris, Shriver & Jacobson LLP  
One New York Plaza  
New York, NY 10004  
E-Mail: murphbr@ffhsj.com  
Telephone: (212) 859-8929  
Facsimile: (212) 859-4000

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(ii) To the Mortgagor:

American Recreation Centers, Inc.  
8100 AMF Drive  
Mechanicsville, VA 23111  
Attn: Daniel McCormack, Esq.  
E-Mail: dmccormack@amf.com  
Telephone: (804) 730-4471

with a copy to:

Brian Davis, Esq.  
Kirkland & Ellis LLP  
200 East Randolph Drive  
Chicago, Illinois 60601  
E-Mail: bdavis@kirkland.com  
Telephone No.: (312) 861-2316

(b) All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the intended recipient and (ii) (A) if delivered by hand or by courier, when signed for by the intended recipient; (B) if delivered by mail, four Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail (which form of delivery is subject to the provisions of subsection (c) below), when delivered. Any notice or other communication permitted to be given, made or confirmed by telephone hereunder shall be given, made or confirmed by means of a telephone call to the intended recipient at the number specified pursuant to this Section 5.02, it being understood and agreed that a voicemail message shall in no event be effective as a notice, communication or confirmation hereunder.

(c) Electronic mail and internet and intranet websites may be used only to distribute routine communications, such as financial statements and other information, and to distribute Second Lien Loan Documents for execution by the parties thereto, to distribute executed Second Lien Loan Documents in Adobe PDF format and may not be used for any other purpose.

**Section 5.03 Successors and Assigns.** The Mortgagee shall have the right to assign or transfer its rights under this Mortgage without limitation. Any assignee or transferee shall be entitled to all the benefits afforded the Mortgagee under this Mortgage.

**Section 5.04 Mortgagee.**

(a) The provisions of Article IX of the Second Lien Credit Agreement shall inure to the benefit of the Mortgagee in respect of this Mortgage and shall be binding upon the parties to the Second Lien Credit Agreement and upon the parties hereto in such respect. In furtherance and not in derogation of the rights, privileges and immunities of the Mortgagee therein set forth:

(i) The Mortgagee is authorized to take all such action as is provided to be taken by it as Mortgagee hereunder and all other action reasonably incidental thereto. As to any matters not expressly provided for herein (including, without limitation, the timing and methods of realization upon the Encumbered Property) the Mortgagee shall act or refrain from acting in

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accordance with written instructions from the Required Lenders or, in the absence of such instructions, in accordance with its discretion.

(ii) The Mortgagee shall not be responsible for the existence, genuineness or value of any of the Encumbered Property or for the validity, perfection, priority or enforceability of the Security Interests in any of the Encumbered Property, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder unless such action or omission constitutes gross negligence or willful misconduct. The Mortgagee shall have no duty to ascertain or inquire as to the performance or observance of any of the terms of this Mortgage by the Mortgagor or any other Second Lien Credit Party.

(b) At any time or times, in order to comply with any legal requirement in any jurisdiction, the Mortgagee may appoint another bank or trust company or one or more other persons, either to act as co-agent or co-agents, jointly with the Mortgagee, or to act as separate agent or agents on behalf of the Second Lien Credit Parties with such power and authority as may be necessary for the effectual operation of the provisions hereof and may be specified in the instrument of appointment (which may, in the discretion of the Mortgagee, include provisions for the protection of such co-agent or separate agent similar to the provisions of Section 5.04(a)). Notwithstanding any such appointment but only to the extent not inconsistent with such legal requirements or, in the reasonable judgment of the Mortgagee, not unduly burdensome to it or any such co-agent, the Mortgagor shall, so long as no Event of Default shall have occurred and be continuing, be entitled to deal solely and directly with the Mortgagee rather than any such co-agent in connection with the Mortgagee's rights and obligations under this Agreement.

(c) If the Mortgagor fails to comply with the provisions of the Second Lien Credit Agreement, this Mortgage or any other Second Lien Loan Document, such that the value of any Encumbered Property or the validity, perfection, rank or value of any security interest or lien therein is thereby diminished or potentially diminished or put at risk, the Mortgagee may, but shall not be required to, effect such compliance on behalf of the Mortgagor, and the Mortgagor shall reimburse the Mortgagee for the costs hereof on demand. All reasonable insurance expenses and all reasonable expenses of protecting, preserving, appraising, insuring, and maintaining the Premises and other Encumbered Property, reasonable expenses of conducting any additional title examinations requested by the Mortgagee, any and all excise, property, sales and use taxes imposed by any state, federal or local authority on any of the Encumbered Property, or in respect of periodic appraisals and inspections of the Encumbered Property to the extent the same may be requested by the Mortgagee from time to time, or in respect of the sale or other disposition thereof shall be borne and paid by the Mortgagor. If the Mortgagor fails to promptly pay any portion thereof when due, the Mortgagee may, at its option, but shall not be required to, pay the same and charge the Mortgagor's account therefor, and the Mortgagor agrees to reimburse the Mortgagee therefor on demand. All sums so paid or incurred by the Mortgagee for any of the foregoing and any and all other sums for which the Mortgagor may become liable hereunder and all costs and expenses (including attorneys' fees, legal expenses and court costs) reasonably incurred by the Mortgagee in enforcing or protecting the security interests and liens granted hereunder or any of its rights or remedies under this Mortgage, shall, together with interest thereon until paid at the Default Rate, be additional Second Lien Obligations hereunder.

(d) The Mortgagor shall indemnify and save harmless the Mortgagee and its directors, officers, trustees, agents and employees (each an "Indemnitee") from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, suits, judgments, fines, costs and expenses of any kind, including, without limitation, reasonable attorneys' fees and disbursements of counsel, (i) arising from the breach by the Mortgagor of any of its obligations under this Mortgage or (ii) arising from the exercise and performance by the Mortgagee of its powers and duties under this Mortgage and the other Second Lien Loan Documents; provided, however, no Indemnitee shall have the right to be



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indemnified hereunder for such Indemnitee's own gross negligence or willful misconduct as determined by a court of competent jurisdiction. If any action, suit or proceeding is brought against the Mortgagee for which the Mortgagor is required to provide indemnification under this Section 5.04(c), the Mortgagor, upon request and at its expense, shall defend such action, suit or proceeding, or cause the same to be defended by counsel designated by the Mortgagor and approved by the Mortgagee. Such approval shall not be withheld, delayed or conditioned unreasonably and shall not be required in the case of defense by counsel designated by any insurance company undertaking such defense pursuant to any applicable policy of insurance.

(e) Any amounts paid by any Indemnitee as to which such Indemnitee has the right to reimbursement shall constitute Second Lien Obligations. The indemnity obligations of the Mortgagor contained in this Section 5.04 shall continue in full force and effect notwithstanding the full payment of all Notes issued under the Second Lien Credit Agreement and all of the other Second Lien Obligations and notwithstanding the acquisition by the Mortgagee of the Encumbered Property or any portion thereof at foreclosure or by deed in lieu of foreclosure.

## **Section 5.05 Satisfaction and Cancellation.**

(a) The conveyance to the Mortgagee of the Encumbered Property as security and for the benefit of the Mortgagee created and consummated by this Mortgage shall be null and void when all the Second Lien Obligations (other than contingent liabilities that, by their nature, may accrue after principal and interest on the Loans have been repaid in full and after all Commitments terminate) have been indefeasibly paid in full in cash in accordance with the terms of the Second Lien Loan Documents, the Commitments have been terminated, all LC Disbursements have expired or been terminated and all have been reimbursed in full.

(b) In connection with any termination or release pursuant to paragraph (a) to the extent applicable, this Mortgage shall be marked "satisfied" by the Mortgagee, and this Mortgage shall be cancelled of record at the request and at the expense of the Mortgagor. The Mortgagee shall execute any documents reasonably requested by the Mortgagor to accomplish the foregoing or to accomplish any release contemplated by this Section 5.05, and the Mortgagor will pay all reasonable costs and expenses, including reasonable attorneys' fees and disbursements actually incurred (not as imposed by statute) by the Mortgagee in connection with the preparation and execution of such documents.

**Section 5.06 Other Second Lien Loan Documents.** The Mortgagor acknowledges that in addition to this Mortgage, other Second Lien Loan Documents secure the Second Lien Obligations. The Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of the Mortgagee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by the Mortgagee of any security for or guarantees of any of the Second Lien Obligations hereby secured, or by any failure, neglect or omission on the part of the Mortgagee to realize upon or protect any Obligation hereby secured or any collateral security therefor including the other Second Lien Loan Documents. Subject in all cases to the terms of the Intercreditor Agreement, the lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any of the Second Lien Obligations or of any of the collateral security therefor, including the other Second Lien Loan Documents or of any guarantee thereof, and the Mortgagee may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the other Second Lien Loan Documents without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of the Mortgagee's rights and remedies under any or all of the other Second Lien Loan Documents shall not in any manner impair the Second Lien Obligations or the lien of

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this Mortgage and any exercise of the rights or remedies of the Mortgagee hereunder shall not impair the lien of any of the other Second Lien Loan Documents or any of the Mortgagee's rights and remedies thereunder. The undersigned specifically consents and agrees that the Mortgagee may exercise its rights and remedies hereunder and under the other Second Lien Loan Documents separately or concurrently and in any order that it may deem appropriate, and the undersigned waives any rights of subrogation. In the event of a conflict between the terms and provisions of this Mortgage and the Second Lien Credit Agreement, both documents shall be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of a conflict that cannot be so resolved, the terms and provisions of the Second Lien Credit Agreement shall control and govern.

**Section 5.07 Subrogation.** This Mortgage is made with full substitution and subrogation of Mortgagee in and to all covenants and warranties by others heretofore given or made in respect of the Encumbered Property or any part thereof. To the extent that proceeds of the Second Lien Obligations are used to pay any outstanding lien, charge or prior encumbrance against the Encumbered Property, such proceeds have been or will be advanced by Mortgagee at Mortgagor's request, and Mortgagee shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether those liens, charges or encumbrances are released.

**Section 5.08 Mortgage Powers.** Without affecting the liability of any other Person liable for the payment of any obligations herein mentioned and without affecting the lien or charge of this Mortgage upon any portion of the Encumbered Property not then or theretofore released as security for the full amount of all unpaid Second Lien Obligations, from time to time, regardless of consideration and without notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to the Encumbered Property, the Mortgagee or any of the Lenders may (i) release any persons liable for or on any Second Lien Obligation, (ii) extend the maturity or alter any of the terms of any Second Lien Obligation, (iii) modify the interest rate payable on the principal balance of the Second Lien Obligations, (iv) grant other indulgences, (v) release or reconvey, or cause to be released or reconveyed at any time at the Mortgagee's option any parcel, portion or all of the Encumbered Property, (vi) take or release any other or additional security for any obligations herein mentioned or (vii) make compositions or other arrangements with debtors in relation thereto.

**Section 5.09 Enforceability of Mortgage.** This Mortgage is deemed to be and may be enforced from time to time as an assignment, chattel mortgage, contract, mortgage, deed to secure debt, deed of trust, financing statement, real estate mortgage or security agreement, and from time to time as any one or more thereof, as is appropriate under applicable laws. A carbon, photographic or other reproduction of this Mortgage or any financing statement in connection herewith shall be sufficient as a financing statement for any and all purposes.

**Section 5.10 Amendments.** No amendment, modification or waiver of any provision of this Mortgage and no consent to any departure by the Mortgagor therefrom shall in any event be effective unless the same shall be in writing and shall be executed and delivered in accordance with Section 10.03 of the Second Lien Credit Agreement, and then such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

**Section 5.11 Applicable Law.** THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE WHERE THE LAND IS LOCATED.

**Section 5.12 Waiver of Jury Trial.** THE MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER

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WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE NOTES, THIS MORTGAGE, OR THE OTHER SECOND LIEN LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY THE MORTGAGOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. THE MORTGAGEE IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY THE MORTGAGOR.

## ARTICLE VI LOCAL LAW PROVISIONS

**Section 6.01 Inconsistencies in Terms.** In the event of any inconsistencies between the terms and conditions of this Article VI and the other provisions of this Mortgage, the terms and conditions of this Article VI shall control and be binding.

**Section 6.02 Alabama Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Alabama. (a) This Mortgage is given to secure the Second Lien Obligations; provided, however, that notwithstanding anything to the contrary contained herein: (i) the maximum principal amount of the Second Lien Obligations secured by this Mortgage (the "Principal Obligations") shall not exceed One Million Six Hundred Nine Thousand Five Hundred Eighty-One Dollars \$1,609,581 (the "Maximum Principal Amount") at any one time outstanding; (ii) the Maximum Principal Amount of the Principal Obligations secured by this Mortgage shall be deemed to be the first Second Lien Obligations to be advanced and the last Second Lien Obligations to be repaid; (iii) the security afforded by this Mortgage for the Second Lien Obligations shall not be reduced by any payments or other sums applied to the reduction of the Second Lien Obligations so long as the total amount of outstanding Principal Obligations exceeds the Maximum Principal Amount and thereafter shall be reduced only to the extent that any such payments and other sums are actually applied by Mortgagee, in accordance with the Second Lien Credit Agreement, to reduce the outstanding Principal Obligations to an amount less than the Maximum Principal Amount; (iv) if at any time after the reduction of the Principal Obligations to an amount less than the Maximum Principal Amount, Principal Obligations should subsequently be incurred that increase the total outstanding Principal Obligations to an amount equal to or exceeding the Maximum Principal Amount, the security afforded by this Mortgage shall thereupon be increased to the maximum Principal Amount; and (v) the limitation contained in this section on the Maximum Principal Amount shall only pertain to Principal Obligations and shall not be construed as limiting the amount of interest, fees, expenses, indemnified amounts and other Obligations secured hereby that are not Principal Obligations, it being the intention of the parties to this Mortgage that this Mortgage shall secure any Principal Obligations remaining unpaid at the time of foreclosure up to the Maximum Principal Amount, plus interest thereon, all costs of collection and all other amounts (except Principal Obligations in excess of the Maximum Principal Amount) included in the Second Lien Obligations.

**Section 6.03 Florida Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Florida.

(a) The reference to Sections 9-334(e) and 9-502(b) of the UCC in Section 3.16 of this Mortgage shall be amended to refer to Sections 679.334, 679.5021(2) and 679.5021(3) of Florida Statutes (2003).

(b) **Future Advances.** This Mortgage is given to secure not only the existing Debt, but also such future advances, whether such advances are obligatory or are to be made at the option of

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Mortgagee or the holder hereof, or otherwise as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of Second Lien Obligations that may be so secured by this Mortgage may be increased or decreased from time to time, but the total unpaid balance so secured at any one time shall not exceed twice the face amount of the Note, plus interest thereon, and any disbursements made under this Mortgage for the payment of impositions, taxes, assessments, levies, insurance, or otherwise with interest on such disbursements at the rate set forth in any Note, plus any increases in the principal balance as the result of negative amortization or deferred interest, if any. It is agreed that any additional sum or sums advanced by Mortgagee pursuant to the terms hereof shall be equally secured with and have the same priority as the original outstanding amount and shall be subject to all of the terms, provisions and conditions of this Mortgage, whether or not such additional loans or advances are evidenced by other promissory notes or other guarantees of Mortgagor and whether or not identified by a recital that it or they are secured by this Mortgage. It is further agreed that any additional promissory note or guaranty or promissory notes or guaranties executed and delivered pursuant to this paragraph shall automatically be deemed to be included in the term "Note" wherever it appears in the context of this Mortgage. Without the prior written consent of Mortgagee, which Mortgagee may grant or withhold in its sole discretion, Mortgagor shall not file for record any notice limiting the maximum principal amount that may be secured by this Mortgage to a sum less than the maximum principal amount set forth in this paragraph.

**Section 6.04 Illinois Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Illinois.

- (a) None.

**Section 6.05 Indiana Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Indiana.

(a) Effect of Waivers. Anything contained herein or in Indiana Code §32-29-7-5 to the contrary notwithstanding, no waiver made by Mortgagor in this Mortgage, or the Second Lien Credit Agreement, or in any of the other terms and provisions of the Second Lien Loan Documents shall constitute the consideration for or be deemed to be a waiver or release by Mortgagee or any judgment holder of the Obligations of the right to seek a deficiency judgment against Mortgagor or any other person or entity who may be personally liable for the Obligations, which right to seek a deficiency judgment is hereby reserved, preserved and retained by Mortgagee for its own behalf and its successors and assigns.

(b) IRPTL Disclosure. To the best of Mortgagor's knowledge, after diligent inquiry and investigation, none of the Encumbered Property is within the definition of the term "property" contained in Indiana Code §13-11-2-174 and that no disclosure statement under Indiana Code §13-25-3 et seq. (the "Indiana Responsible Property Transfer Law" or "IRPTL") is required and, as a result, the transaction evidenced by this Mortgage is not subject to the provisions of said act. If the Mortgaged Property ever becomes subject to or constitutes "property" subject to IRPTL, Mortgagor agrees to comply with IRPTL requirements.

(c) Future Advances; Maximum Principal Amount. Pursuant to Indiana Code §32-29-1-10, the lien of this Mortgage with respect to any future advances, modifications, extensions, and renewals referred to herein and made from time to time up to the maximum principal amount of One Hundred Seventy-Five Million Dollars (\$175,000,000) shall have the same priority to which this Mortgage otherwise would be entitled as of the date this Mortgage is executed and recorded without regard to the fact that any such future advance, modification, extension, or renewal may occur after this Mortgage is executed.

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(d) Fixture Filing. This Mortgage shall also constitute a “fixture filing” for the purposes of the UCC against all of the Encumbered Property which is or is to become fixtures (including, without limitation, Manufactured Housing Units to the extent the same may constitute fixtures under any applicable law). The information provided in this Section 6.03(d) is provided so that this Mortgage shall comply with the requirements of the UCC for a mortgage instrument to be filed as a financing statement. Mortgagor is the “Debtor” and its name and mailing address are set forth in Section 5.02 hereof. Mortgagee is the “Secured Party” and its name and mailing address from which information concerning the security interest granted herein may be obtained are also set forth in Section 5.02 hereof. A statement describing the portion of the Encumbered Property comprising the fixtures hereby secured is set forth in Section 1.01 of this Mortgage. Mortgagor represents and warrants to Mortgagee that Mortgagor is the record owner or the lessee, as applicable, of the Mortgaged Property, the employer identification number of Mortgagor is 54-1221662 and the organizational identification number of Mortgagor is 0236997-3.

(e) Remedies. Exercise all other rights, remedies and recourses granted under the Second Lien Loan Documents or otherwise available at law or in equity. To the extent the laws of the State of Indiana limit (i) the availability of the exercise of any of the remedies set forth herein, including without limitation the remedies involving a power of sale on the part of Mortgagee and the right of Mortgagee to exercise self help in connection with the enforcement of the terms of this Mortgage, or (ii) the enforcement of waivers and indemnities made by Mortgagor, such remedies, waivers, or indemnities shall be exercisable or enforceable, any provisions in this Mortgage to the contrary notwithstanding, if, and to the extent, permitted by the laws in force at the time of the exercise of such remedies or the enforcement of such waivers or indemnities without regard to the enforceability of such remedies, waivers or indemnities at the time of the execution and delivery of this Mortgage. Where any provision of this Mortgage is inconsistent with any provision of the law of the State of Indiana regulating the creation or enforcement of a lien or security interest in real or personal property including, but not by way of limitation, Indiana Code §32-30-10 (Mortgage Foreclosure Actions), the provisions of such state law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provisions of this Mortgage that can be construed in a manner consistent with such state law. Notwithstanding any provision in this Mortgage relating to a power of sale or other provision for sale of the Mortgaged Property upon default other than under a judicial proceeding, any sale of the Mortgaged Property pursuant to this Mortgage will be made through a judicial proceeding, except as otherwise may be permitted under the UCC.

(f) Assignment. The assignment made by Mortgagor in Section 3.14 of this Mortgage, of all of its right, title and interest in and to all Leases, whether now existing or hereafter entered into, and all of its right, title and interest in and to all Rents is an absolute assignment and not an assignment for additional security only; provided, however, that if a court of competent jurisdiction construes this assignment to be collateral that secures the Obligations rather than an absolute assignment, this assignment shall constitute an assignment of rents as set forth in Indiana Code §32-21-4-2 and thereby create a security interest in the Rents that will be perfected upon the recording hereof.

(g) The word “warrants” shall be added after the word “mortgages” in Section 2.01 hereof.

**Section 6.06 Kansas Provisions**. The following provisions shall apply with respect to any Encumbered Property in the State of Kansas.

(a) The word “warrants” shall be added after the word “mortgages” in Section 2.01 hereof.

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**Section 6.07 Kentucky Provisions.** The following provisions shall apply with respect to any Encumbered Property in the Commonwealth of Kentucky.

(a) Future Advances. This Mortgage secures future advances in the maximum principal amount of \$175,000,000, other than protective advances which are secured hereby.

**Section 6.08 Louisiana Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Louisiana.

(a) The first sentence of Section 2.01 of this Mortgage is hereby amended to read 'To secure the full and punctual payment of the Second Lien Obligations in accordance with the terms thereof, including the performance of all of the obligations of the Mortgagor hereunder, of Holdings and the Borrower under the Second Lien Credit Agreement and the other Second Lien Loan Documents, of each Second Lien Credit Party which is party to a Derivative Agreement with one or more Derivatives Creditors, of Holdings and each Subsidiary Guarantor under its Guaranty and of each Second Lien Credit Party under any other Second Lien Loan Document, the Mortgagor hereby mortgages, affects and specially hypothecates and hereby grants a security interest in pledges and sets over to the Mortgagee, the Encumbered Property, subject only to the Permitted Encumbrances.'

(b) The first sentence of Section 3.14(a) of this Mortgage is hereby amended to read 'The Mortgagor hereby irrevocably, collaterally pledges and assigns in accordance with the Louisiana Revised Statute 9:4401 to the Mortgagee all of its right, title and interest in and to all Leases, together with any and all extensions and renewals thereof for purposes of securing and discharging the Second Lien Obligations.'

(c) The first two sentences of Section 3.14(c) of this Mortgage are hereby amended to read 'The Mortgagor has conditionally assigned and transferred to the Mortgagee all of the Mortgagor's right, title and interest in and to the Rents now or hereafter arising, it being intended that this assignment establish, in accordance with Section 3.14(d) below, a conditional transfer and assignment of all Rents and all Leases to the Mortgagee. Such assignment to the Mortgagor shall not be construed to bind the Mortgagee to the performance of any of the covenants, conditions or provisions contained in any Lease or otherwise impose any obligation upon the Mortgagee.'

(d) The words 'and grant' are hereby deleted from Section 3.16 of this Mortgage.

(e) Section 4.05 of this Mortgage is hereby amended to add 'pursuant to Louisiana Revised Statutes 9:5136 et seq.,' after the words 'appointment of a receiver.'

(f) Section 4.06(a) of this Mortgage is hereby amended to read 'If an Event of Default shall occur and be continuing, the Mortgagee may elect to force a sale of the Encumbered Property or any part of the Encumbered Property by exercise of the power of foreclosure granted to the Mortgagee by applicable law, this Mortgage or any other Collateral Document. Solely for purposes of permitting Mortgagee to proceed against Mortgagor by executory process, Mortgagor hereby confesses judgment in favor of Mortgagee for the full amount of the Second Lien Obligations. In such case, the Mortgagee may commence a civil action to foreclose this Mortgage, in accordance with applicable law, to satisfy any Secured Obligation. An officer appointed by a judgment of foreclosure to sell the Encumbered Property, may sell all or such parts of the Encumbered Property as may be chosen by the Mortgagee at the time and place of sale fixed by it in a notice of sale, either as a whole or in separate lots, parcels or items as the Mortgagee shall deem expedient and in such order as it may determine, at public auction to the highest bidder all in accordance with the laws of the state of Louisiana. The Mortgagee or an officer appointed by a judgment of foreclosure to sell the Encumbered Property may postpone any

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foreclosure or other sale of all or any portion of the Encumbered Property by public announcement at such time and place of sale, and from time to time as permitted by applicable law thereafter may postpone such sale by public announcement or subsequently noticed sale. Except as otherwise required by applicable law, without further notice, the Mortgagee or an officer appointed to sell the Encumbered Property may make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale. Any person, including the Mortgagor or the Mortgagee or any designee or affiliate thereof, may purchase any portion of the Encumbered Property at such sale. If the Mortgagee, or any affiliate of the Mortgagee, is the highest bidder at any foreclosure sale, the Mortgagee may credit the Second Lien Obligations for the amount of the Mortgagee's bid in lieu of a cash payment. Mortgagor authorizes and empowers the Mortgagee to execute and deliver to the purchaser or purchasers at any such foreclosure sale, good and sufficient deed(s) and/or bill(s) of sale of the Encumbered Property, or the part thereof foreclosed upon, all with covenants of general warranty binding on Mortgagor and Mortgagor's successors and assigns.'

(g) In connection with Mortgagor's waivers pursuant to Sections 4.01(a) and (b) of this Mortgage, and to the extent permitted by applicable law, Mortgagor hereby expressly waives each, to the extent permitted by applicable law, (i) the benefit of appraisal provided for in Articles 2332, 2336, 2723 and 2724, Louisiana Code of Civil Procedure, and all other laws conferring such benefits; (ii) the demand and three (3) days delay accorded by Articles 2639 and 2721, Louisiana Code of Civil Procedure; (iii) the notice of seizure required by Articles 2293 and 2721, Louisiana Code of Civil Procedure; (iv) the three (3) days delay provided by Articles 2331 and 2722, Louisiana Code of Civil Procedure; (v) the benefit of the other provisions of Article 2331, 2722, and 2723, Louisiana Code of Civil Procedure; (vi) the benefit of the provisions of any other articles of the Louisiana Code of Civil Procedure not specifically mentioned above; (vii) all rights of division and discussion with respect to any obligations secured by this Mortgage; and (viii) all homestead and other exemptions relating to the Encumbered Property.

(h) The first sentence of Section 5.05(a) of this Mortgage is hereby amended by replacing the word 'conveyance' with the words 'mortgage and hypothecation.'

(i) Any and all references to the Uniform Commercial Code shall also refer to and include the Louisiana Commercial Laws-Secured Transactions, Louisiana Revised Statutes 10:9-101, et seq., and any and all provisions thereof corresponding to the Uniform Commercial Code.

(j) Any and all references to a receiver shall also mean, refer to and include a keeper under Louisiana Revised Statutes 9:5136, et seq.

(k) Any and all references to real property shall also mean, refer to and include immovable property and any and all references to personal property shall also mean, refer to and include movable property.

(l) Any and all references to county shall also mean, refer to and include parish.

(m) Any and all references to joint and several liability shall also mean, include and refer to solidary liability.

**Section 6.09 Massachusetts Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Massachusetts.

(a) This Mortgage is granted with Mortgage Covenants.

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(b) This Mortgage is upon the Statutory Condition.

(c) While there exists an Event of Default, Mortgagee shall have the Statutory Power of Sale.

(d) This Mortgage is intended to constitute: (i) a mortgage deed under Massachusetts General Laws c. 183, §18, (ii) a security agreement and financing statement under the UCC, and (iii) a notice of assignment of rents of profits under Massachusetts General Laws c. 183, §4. This Mortgage is also intended to operate and be construed as an absolute present assignment of the rents, issues and profits of the Mortgaged Property, Mortgagor hereby agreeing, as provided for in Massachusetts General Laws c. 183 §6, that Mortgagee is entitled to receive the rents, issues and profits of the Property prior to an Event of Default and without entering upon or taking possession of the Mortgaged Property subject to the revocable license of Mortgagor under Section 6.1 hereof.

**Section 6.10 Michigan Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Michigan.

(a) The definition of "Subject Leases" in Section 1.01 is hereby amended to read 'the leases described on Exhibit D attached hereto.'

(b) Section 2.01 is hereby amended by adding the words "and warrants" after the word "mortgages".

(c) Assignment of Leases and Rents. The first sentence of Section 3.14(a) of this Mortgage is hereby amended to read 'The Mortgagor, pursuant to Act No. 210 of the Michigan Public Acts of 1953, as amended (MCLA Section 554.231 et seq.) and Act No. 228 of the Michigan Public Acts of 1925, as amended (MCLA Section 554.211 et seq.), hereby irrevocably, unconditionally and absolutely grants, transfers and assigns to the Mortgagee all of its right, title and interest in and to all Leases, together with any and all extensions and renewals thereof and all rents, issues, and profits of the Encumbered Property for purposes of securing and discharging the Second Lien Obligations.'

(d) Future Advances. This Mortgage is a 'Future advance mortgage' under Act No. 348 of the Michigan Public Acts of 1990 (MCLA Section 565.901 et seq.) and is intended to and shall secure future advances.

(e) Upon an Event of Default, Mortgagee shall have the option, without any further notice or demand, in addition to and not in lieu of or in substitution for, all other rights and remedies provided by law, to immediately commence foreclosure proceedings through judicial proceedings or by advertisement, at the option of Mortgagee, against the Encumbered Property pursuant to the statute in such case made and provided and to sell the Encumbered Property or to cause the same to be sold at public sale in accordance with said statute in a single parcel or in several parcels at the option of Mortgagee. Mortgagor hereby acknowledges that this Mortgage contains a POWER OF SALE, and that in the event Mortgagee elects to foreclose by advertisement pursuant to the POWER OF SALE, in accordance with MCLA Section 600.3201 et seq., MORTGAGOR EXPRESSLY WAIVES A HEARING PRIOR TO SALE AND ANY RIGHT, CONSTITUTIONAL OR OTHERWISE, THAT MORTGAGOR MIGHT OTHERWISE HAVE TO REQUIRE A JUDICIAL FORECLOSURE; provided, however, that such waiver shall not waive Mortgagor's right to a notice of a sale, as applicable by Michigan law.

(f) This Mortgage constitutes a fixture filing under the Michigan Uniform Commercial Code, and for this purpose the debtor is the Mortgagor and the secured party is the Mortgagee. The secured party's name and address is the Mortgagee's name and address as listed in the



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first paragraph of this Mortgage. The debtor's name and address is the Mortgagor's name and address as listed in the first paragraph of this Mortgage.

**Section 6.11 Minnesota Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Minnesota.

(a) The first sentence of Section 2.01 is hereby amended to read: 'In consideration of the sum of \$1.00 and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged to secure the full and punctual payment of the Second Lien Obligations in accordance with the terms thereof, including the performance of all of the obligations of the Mortgagor hereunder, of Holdings and the Borrower under the Second Lien Credit Agreement and the other Second Lien Loan Documents, of each Second Lien Credit Party which is party to a Derivative Agreement with one or more Derivatives Creditors, of Holdings and each U.S. Subsidiary Guarantor under its U.S. Guaranty and of each Second Lien Credit Party under any other Second Lien Loan Document, the Mortgagor hereby grants, bargains, sells, transfers, sets over, assigns and conveys as security, grants a security interest in, hypothecates, mortgages, pledges and sets over to the Mortgagee, a security interest in and to the extent of Mortgagor's right, title and interest in the Encumbered Property, subject only to the Permitted Encumbrances.'

(b) Section 3.14(c) is hereby amended by inserting the words 'to the extent permitted by applicable law' after the words 'license and right' and before the words 'subject to automatic revocation'.

(c) In addition to the provisions of Section 3.16, this Mortgage upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Sections 336.9-334(e) and 336.99-502(a) and (b) of Minnesota Statutes.

(d) Any receiver appointed pursuant to Section 4.05 hereof shall be an experienced property manager, shall collect (until the Second Lien Obligations are paid in full and, in the case of a foreclosure sale, during the entire redemption period, if any) the rents, issues, profits and all other income of any kind from the Mortgaged Property, manage the Mortgaged Property so as to prevent waste, execute leases within or beyond the period of the receivership, if approved by the court, and apply all rents, issues, profits and other income collected by him in the following order:

(i) to payment of all reasonable fees of the receiver, if any, approved by the court;

(ii) Repayment of tenant security deposits, with interest thereon, as required by Minnesota Statutes, Section 504.20, if applicable;

(iii) Payment when due of prior or current real estate taxes or special assessments with respect to the Mortgaged Property, or the periodic escrow for payment of the same;

(iv) Payment when due of premiums for insurance of the types required hereby, or the periodic escrow for payment of the same;

(v) Keeping of the covenants required of a lessor or licensor pursuant to Minnesota Statutes, Section 504.18, Subdivision 1, if applicable

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(vi) to expenses for normal maintenance, operation and management of the Mortgaged Property, including but not limited to Mortgagee's out of pocket costs and all other costs and expenses which Mortgagee is entitled to pay or incur pursuant to the Assignment of Leases and Rents; and

(vii) the balance to Mortgagee to be credited, prior to commencement of foreclosure, against the Financed Obligations, in such order as Mortgagee may elect, or to be credited, after commencement of foreclosure, to the amount required to be paid to effect a reinstatement prior to foreclosure sale, or to be credited, after a foreclosure sale, to any deficiency and then to the amount required to be paid to effect a redemption, pursuant to Minnesota Statutes, Sections 580.30, 580.23 and 581.10, or their successors, as the case may be, with any excess to be paid to Mortgagor.

(e) The maximum amount of the Second Lien Obligations secured hereby, excluding protective advances made by the Mortgagee, shall at all times be \$ 175,000,000.

**Section 6.12 New Jersey Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of New Jersey.

(a) None.

**Section 6.13 New York Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of New York.

(a) Leases. Mortgagee shall have all of the rights against lessees of the Encumbered Property set forth in Section 291-f of the Real Property Law of New York.

(b) Maximum Amount of Principal Indebtedness. Notwithstanding anything to the contrary in this Mortgage, the maximum aggregate principal amount of indebtedness that is, or under any contingency may be, secured by this Mortgage (including Mortgagor's obligation to reimburse protective advances made by Mortgagee) either at execution or at any time thereafter (the "Secured Amount") is the sum of (1) the Maximum Principal Amount plus (2) amounts that Mortgagee expends after a declaration of default under this Mortgage, to the extent that any such amounts shall constitute payment of: (a) taxes, charges or assessments that may be imposed by law on any Encumbered Property; (b) premiums on insurance policies covering any Encumbered Property; (c) expenses incurred in upholding the lien of this Mortgage, including the expenses of any litigation to prosecute or defend the rights and lien created by this Mortgage; or (d) any amount, cost or charge to which Mortgagee becomes subrogated, on payment, whether under recognized principles of law or equity, or under express statutory authority; then, and in each such event, such amounts or costs shall be secured by this Mortgage.

(c) Application of Real Property Law Sections. The covenants and conditions in this Mortgage shall be construed as affording to Mortgagee rights additional to, and not exclusive of, the rights conferred under the provisions of New York Real Property Law Sections 254, 271 and 272. The following provisions of New York Real Property Law Section 254 shall, however, not apply to this Mortgage and the rights and obligations of the parties to this Mortgage: (1) subsection "4," covering the use and application of casualty or flood insurance proceeds; and (2) the portion of subsection "4-a" that begins with the word "however" and continues to the end of the paragraph. Any inconsistency between this Mortgage and Real Property Law Section 254, 271 or 272 shall be resolved in favor of this Mortgage.

(d) Lien Law Covenant. This Mortgage is made subject to the trust fund provisions of Section 13 of the New York Lien Law. Mortgagor shall receive all monies and advances secured by

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this Mortgage and shall hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of improvement before using any part of the same for any other purpose.

(e) Future Advances. In accordance with Real Property Law Section 281, except to the extent that Mortgagee elects otherwise in writing, this Mortgage shall secure (subject to the limitations on the Secured Amount as set forth in this Mortgage), in addition to any indebtedness or obligation secured by this Mortgage as of the Closing Date, any and all future obligations and future advances that Mortgagee may make (within 20 years after the date of recording of this Mortgage) under the Second Lien Loan Documents, including protective advances (collectively, the "Future Advances"). This Mortgage shall, except to the extent that Mortgagee elects otherwise in writing, secure all Future Advances (without need for the parties to execute or record any amendment, supplement or modification to this Mortgage) whether such Future Advances are "optional" or "obligatory," all to the same extent and with the same priority of lien as if such Future Advances had been made on the Closing Date. Pursuant to New York Real Property Law §281, this Mortgage secures indebtedness under a note, Second Lien Credit Agreement or other financing agreement that reflects the fact that the parties reasonably contemplate entering into a series of advances, and that limits the aggregate amount at any time outstanding to the maximum amount specified in this Mortgage (the Secured Amount).

(f) Multiple Parcels. If the Encumbered Property consists of multiple parcels, then in any sale of the Encumbered Property pursuant to Mortgagee's exercise of its remedies after an Event of Default (including any judicial foreclosure sale under Real Property Actions and Proceedings Law Article 14), the multiple parcels shall be sold at one time and in a single sale, except to the extent that Mortgagee, in its sole absolute discretion, determines to sell any one or more of the parcel(s) separately. Any such separate sales may be made in whatever order Mortgagee determines in its sole and absolute discretion. Mortgagee may, in its sole and absolute discretion, cause the entire Encumbered Property to be offered for sale as a single auction lot and may also cause bids to be solicited for individual parcels of the Encumbered Property as separate auction lots in any order, but shall be under no obligation to proceed in either manner or the other.

(g) Non-Judicial Foreclosure. In addition to any other remedy available to Mortgagee under Article IV of this Mortgage or otherwise, upon the occurrence of an Event of Default, Mortgagee shall have the right to sell the Encumbered Property pursuant to Article 14 of the New York Real Property Actions and Proceedings Law.

(h) This Mortgage does not cover real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each having their own separate cooking facilities.

**Section 6.14 Oklahoma Provisions**. The following provisions shall apply with respect to any Encumbered Property in the State of Oklahoma.

(a) This Mortgage secures (i) \$4,300,964 (the "Secured Portion") of the principal indebtedness included in the Second Lien Obligations and (ii) all interest, fees, charges, obligations and liabilities included in the Second Lien Obligations or otherwise secured hereby, including those arising under Sections 3.07(b), 3.08(b), 3.21(f), 4.04, 5.04(c) and 5.04(d), except the principal indebtedness in excess of the Secured Portion. So long as the balance of the Second Lien Obligations exceeds the portion of the Second Lien Obligations secured by this Mortgage, no payment on account of the Second Lien Obligations shall be deemed to be applied against or to reduce the portion of the Second Lien Obligations secured by this Mortgage, but shall, instead, be deemed to be applied against only such portions of the Second Lien Obligations that are not secured by this Mortgage.

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(b) The Second Lien Obligations are on a variable rate basis as set forth in the Second Lien Credit Agreement, as amended from time to time.

(c) Notwithstanding anything in Section 4.10 of this Mortgage to the contrary, if the Mortgagee elects to foreclose this Mortgage by judicial proceedings, appraisal of the Encumbered Property is waived or not waived at the option of the Mortgagee, such option can be exercised at or prior to the time judgment is rendered in any judicial foreclosure hereof.

(d) If an Event of Default shall have occurred, Mortgagee shall have the following rights and remedies, which shall be in addition to and not in limitation of any other rights and remedies set forth in this Mortgage, the Second Lien Credit Agreement or the other Second Lien Loan Documents:

(i) *Power of Sale.* Mortgagee may elect to use the non-judicial Power of Sale which is hereby conferred under the terms of this Mortgage. Such Power of Sale shall be exercised by giving Mortgagor Notice of Intent to Foreclose by Power of Sale and setting forth among other things, the nature of the breach(es) or default(s) and the action required to effect a cure thereof and the time period within which such cure may be effected in all compliance with Title 46 (Oklahoma Statutes § § 40 et. Seq. (Oklahoma Power of Sale Mortgage Foreclosure Act)) as the same may be amended from time to time of other applicable statutory authority. If no cure is effected within the statutory time limits, the Mortgagee may accelerate the Second Lien Obligations without further notice (the aforementioned statutory cure period shall run concurrently with any contractual provision for notice and/or cure period before acceleration of debt) and may then proceed in the manner and subject to the conditions of the above referenced statutes to send to Mortgagor and other necessary parties a Notice of Sale and to sell and convey the Encumbered Property in accordance with the above referenced statutes. The same shall be made at one or more sales, as an entirety or in parcels, upon such notice, at such time and places, subject to all conditions and with the proceeds thereof to be applied all as provided in said Oklahoma Power of Sale Mortgage Foreclosure Act. No action of Mortgagee based upon the provisions contained herein or contained in the Oklahoma Power of Sale Mortgage Foreclosure Act, including, without limitation, the giving of the Notice of Intent to Foreclose by Power of Sale or the Notice of Sale, shall constitute an election of remedies which would preclude Mortgagee from pursuing judicial foreclosure before or at any time after commencement of the power of sale foreclosure procedure;

(ii) *Judicial Foreclosure.* Whether or not proceedings have commenced by the exercise of the Power of Sale above given, Mortgagee in lieu of proceeding with the power of sale may at its option declare the whole amount of the Second Lien Obligations remaining unpaid, immediately due and payable without notice, and proceed by suit or suits in equity or at law to foreclose this Mortgage. The Encumbered Property may be sold as one parcel or in such parcels as the Mortgagee may elect unless otherwise provided by law.

(e) With respect to the assignment of Leases and Rents, contained herein, the license granted to the Mortgagor/Assignor to receive rents shall be on the condition and with the understanding and agreement that the Mortgagor/Assignor shall hold same, as well as the right and license to receive same, as a trust fund to be applied, and the Mortgagor/Assignor hereby covenants to so apply same, first to the payment of taxes and assessments upon the Encumbered Property before penalty or interest are due thereon, secondly to the cost of insurance and maintenance and repairs on the Encumbered Property and thirdly to the payment of interest and principal becoming due on the Second Lien Obligations, before using any part of the same for any purpose.

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(f) With respect to Section 3.16 of this Mortgage, Mortgagor further agrees: (x) that Mortgagor is a corporation organized under the laws of the State of California and (y) Mortgagor's organizational identification number is CO372980.

(g) The following text shall be inserted at the end of the page preceding the signature page:

## NOTICE

**A POWER OF SALE HAS BEEN GRANTED IN THIS MORTGAGE. A POWER OF SALE MAY ALLOW THE MORTGAGEE TO TAKE THE MORTGAGED PROPERTY AND SELL IT WITHOUT GOING TO COURT IN A FORECLOSURE ACTION UPON DEFAULT BY THE MORTGAGOR UNDER THIS MORTGAGE.**

**Section 6.15 South Carolina Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of South Carolina.

(a) Future Advances. This Mortgage is granted to secure in accordance with Section 29-3-50, as amended, Code of Laws of South Carolina 1976; (a) all future advances and readvances that may subsequently be made to Borrower by Lender evidenced by any Note, this Mortgage, or any other promissory notes, and all renewals, replacements, modifications, and extensions thereof; provided, however, that nothing contained herein shall create an obligation on the part of Mortgagee to make future advances or readvances to Mortgagor and (b) all other indebtedness of Mortgagor to Mortgagee now or hereafter existing, whether direct or indirect, the maximum amount of all indebtedness or outstanding at any one time secured hereby not to exceed \$175,000,000, plus interest thereon, all charges and expenses of collection incurred by Lender, including court costs, and reasonably attorneys' fees; and also in order to charge the Encumbered Property with such payment, performance and observance.

(b) Limitations Based Upon Applicable Law. Anything to the contrary otherwise contained in this instrument notwithstanding, all provisions of this instrument granting to any party remedies or the benefits of any waiver, self-help or other similar provisions shall be read to provide that the same are available only to the extent permitted by applicable law.

**Section 6.16 Wisconsin Provisions.** The following provisions shall apply with respect to any Encumbered Property in the State of Wisconsin.

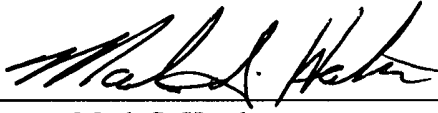
(a) Mortgagor agrees and consents to the provisions of Sec. 846.101 and Sec. 846.103, Wis. Stats., whichever is applicable, and as the same may be amended or renumbered from time to time, permitting Mortgagee, upon waiving the right to a judgment for deficiency, to hold the foreclosure sale of real estate within the shortened redemption period stated therein.

[Remainder of page intentionally left blank.  
Signature page follows.]


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IN WITNESS WHEREOF, this Mortgage has been duly authorized and has been executed and delivered, under seal, to the Mortgagee by the Mortgagor on the date first above written.

AMF BOWLING CENTERS, INC.

By:   
Name: Mark S. Hatcher  
Title: Vice President of Real Estate

ATTEST:


By:   
Name: Daniel M. McCormack  
Title: Secretary

[Corporate Seal]

STATE OF VIRGINIA            )  
  )        ss  
COUNTY OF HANOVER        )

I, Ann S. Garris, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Mark S. Hatcher, the Vice President of Real Estate of AMF Bowling Centers, Inc., a Virginia corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President of Real Estate, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 27th day of September, 2007.

  
ANN S. GARRIS, NOTARY PUBLIC

My commission expires: 10/31/07  
Notary Registration Number: 147785

(SEAL)

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Exhibit A to the Mortgage Agreement

## Legal Description

The legal description of each of the following properties is attached:

3245 Kirchoff Road, Rolling Meadows, IL ("Rolling Meadows Property")

3201 East End Avenue, South Chicago, IL ("South Chicago Property")



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Exhibit B to the Mortgage Agreement

## Title Commitments

Rolling Meadows Property: Title Commitment number 8392069, issued by Chicago Title Insurance Company

South Chicago Property: Title Commitment number 8392068, issued by Chicago Title Insurance Company





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Exhibit C to the Mortgage Agreement

## Ground Leases

Rolling Meadows Property: That certain unrecorded Lease between First Continental Realty Fund Ltd., a Texas limited partnership, as lessor, to Fair Lanes Illinois Bowling, Inc., a Maryland corporation, as lessee, dated as of March 5, 1973, as disclosed by a memorandum of which was filed March 8, 1973 as LR2678929 (note that Fair Lanes Illinois Bowling, Inc. merged into Fair Lanes Maryland Bowling, Inc., subsequent thereto Fair Lanes Maryland Bowling, Inc. merged into AMF Bowling Centers, Inc., a Virginia corporation)

South Chicago Property: That certain unrecorded Lease between First Continental Realty Fund Ltd., a Texas limited partnership, as lessor, to Fair Lanes Illinois Bowling, Inc., a Maryland corporation, as lessee, dated as of March 5, 1973, as disclosed by a memorandum of which was filed March 8, 1973 as LR2678929 (note that Fair Lanes Illinois Bowling, Inc. merged into Fair Lanes Maryland Bowling, Inc., subsequent thereto Fair Lanes Maryland Bowling, Inc. merged into AMF Bowling Centers, Inc., a Virginia corporation)

Property of Cook County Clerk's Office

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**Policy No. 8392068**  
**Site 105**  
**South Chicago Heights, IL**

**CENTER # 632**

**LEGAL DESCRIPTION**

THE LEASEHOLD ESTATE, CREATED BY THE INSTRUMENT HEREIN REFERRED TO AS THE LEASE, EXECUTED BY: FIRST CONTINENTAL REALTY FUND LTD, A TEXAS LIMITED PARTNERSHIP, AS LESSOR TO FAIR LANES ILLINOIS BOWLING, INC., A CORPORATION OF MARYLAND, AS LESSEE, BY VIRTUE OF AN UNRECORDED LEASE DATED MARCH 5, 1973, AS DISCLOSED BY A MEMORANDUM OF WHICH WAS FILED MARCH 8, 1973 AS LR2678929, TO WIT FAIR LANES ILLINOIS BOWLING, INC. MERGED INTO FAIR LANES MARYLAND BOWLING, INC., SUBSEQUENT THERETO FAIR LANES MARYLAND BOWLING, INC MERGED INTO AMF BOWLING CENTERS, INC., A VIRGINIA CORPORATION, AND AS THEREAFTER AMENDED, MODIFIED, SUPPLEMENTED OR ASSIGNED, DEMISING THE LAND FOR A TERM OF YEARS BEGINNING MARCH 5, 1973 AND ENDING 240 FULL CALENDAR MONTHS THEREAFTER WITH EXTENSION RIGHTS.

**PARCEL 1:**

THAT PART OF LOT 13 IN CIRCUIT COURT PARTITION OF THE NORTHEAST 1/4 OF SECTION 32 AND THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 33, TOWNSHIP 35 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE NORTHERLY LINE OF LOT 13 WITH THE EASTERLY RIGHT OF WAY LINE OF HERETOFORE DEDICATED EAST END AVENUE; THENCE EASTERLY ON THE NORTHERLY LINE OF SAID LOT 13, SAID LINE HAVING A BEARING (ASSUMED) OF NORTH 84 DEGREES, 20 MINUTES, 40 SECONDS EAST FOR THE PURPOSE OF THIS DESCRIPTION, A DISTANCE OF 310 FEET TO A POINT; THENCE SOUTH 00 DEGREES, 25 MINUTES, 40 SECONDS EAST 273.45 FEET TO A POINT; THENCE WESTERLY ON A STRAIGHT LINE, SAID LINE WHICH IS THE SOUTHERLY FACE OF AN EXISTING ONE STORY BRICK AND BLOCK BUILDING WALL AND SAID FACE OF WALL EXTENDED EAST, A DISTANCE OF 110 FEET TO A POINT; THENCE SOUTH 00 DEGREES, 25 MINUTES, 40 SECONDS EAST A DISTANCE OF 30 FEET TO A POINT; THENCE SOUTH 89 DEGREES, 54 MINUTES, 40 SECONDS WEST A DISTANCE OF 198.72 FEET TO THE EASTERLY RIGHT OF WAY LINE OF EAST END AVENUE; THENCE NORTH 00 DEGREES, 25 MINUTES, 40 SECONDS TO THE POINT OF BEGINNING, EXCEPT THAT PART CONVEYED TO THE PEOPLE OF THE STATE OF ILLINOIS FOR THE USE AND BENEFIT OF THE DEPARTMENT OF TRANSPORTATION BY DEED RECORDED AS DOCUMENT 92157338 DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF LOT 13 WITH THE EAST LINE OF HERETOFORE DEDICATED EAST END AVENUE; THENCE ON AN ASSUMED BEARING OF NORTH 83 DEGREES 39 MINUTES 38 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 13, BEING ALSO THE CENTERLINE OF SAUK TRAIL ROAD, A DISTANCE OF 310.00 FEET TO A POINT ON THE EAST LINE OF GRANTOR'S PROPERTY; THENCE SOUTH 00 DEGREES 57 MINUTES 28 SECONDS EAST ALONG SAID EAST LINE 38.17 FEET TO A POINT ON A LINE 38.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF LOT 13 AFORESAID; THENCE SOUTH 83 DEGREES 39 MINUTES 38 SECONDS WEST ALONG SAID PARALLEL

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LINE, 294.93 FEET; THENCE SOUTH 41 DEGREES 21 MINUTES 05 SECONDS WEST, 22.28 FEET TO THE EAST LINE OF EAST END AVENUE AFORESAID; THENCE NORTH 00 DEGREES 57 MINUTES 28 SECONDS WEST ALONG SAID EAST LINE, 53.23 FEET TO THE POINT OF BEGINNING.

## PARCEL 2:

THAT PART OF LOT 13 IN CIRCUIT COURT PARTITION OF THE NORTHEAST 1/4 OF SECTION 32 AND THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 33, TOWNSHIP 35 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF HERETOFORE DEDICATED EAST END AVENUE, SAID RIGHT OF WAY LINE HAVING A BEARING OF NORTH 00 DEGREES, 25 MINUTES, 40 SECONDS EAST (ASSUMED FOR THE PURPOSE OF THIS DESCRIPTION), A DISTANCE OF 273.96 FEET SOUTH OF THE NORTHERLY LINE OF LOT 13; THENCE SOUTH 00 DEGREES, 25 MINUTES, 40 SECONDS EAST A DISTANCE OF 71.18 FEET TO A POINT; THENCE NORTH 89 DEGREES, 54 MINUTES, 40 SECONDS EAST A DISTANCE OF 308.72 FEET TO A POINT; THENCE NORTH 00 DEGREES, 25 MINUTES, 40 SECONDS WEST A DISTANCE OF 101.76 FEET; THENCE WESTERLY ON A STRAIGHT LINE, SAID LINE WHICH IS THE SOUTHERLY FACE OF AN EXISTING ONE STORY BRICK AND BLOCK BUILDING WALL AND SAID FACE OF WALL EXTENDED EAST, A DISTANCE OF 110 FEET TO A POINT, THENCE SOUTH 00 DEGREES, 25 MINUTES, 40 SECONDS EAST A DISTANCE OF 30 FEET; THENCE SOUTH 89 DEGREES, 54 MINUTES, 40 SECONDS WEST A DISTANCE OF 198.72 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Tax # 32-33-101-028-0000 (Parcel 1)

Tax # 32-33-101-029-0000 (Parcel 2)

Cook County Clerk's Office

**UNOFFICIAL COPY**

**Policy No. 8392069**  
**Site 106**  
**Rolling Meadows, IL**

**CENTER # 385**

**LEGAL DESCRIPTION**

THE LEASEHOLD ESTATE, CREATED BY THE INSTRUMENT HEREIN REFERRED TO AS THE LEASE, EXECUTED BY: FIRST CONTINENTAL REALTY FUND LTD, A TEXAS LIMITED PARTNERSHIP, AS LESSOR TO FAIR LANES ILLINOIS BOWLING, INC., A CORPORATION OF MARYLAND, AS LESSEE, BY VIRTUE OF AN UNRECORDED LEASE DATED MARCH 5, 1973, AS DISCLOSED BY A MEMORANDUM OF WHICH WAS FILED MARCH 8, 1973 AS LR2678929, TO WIT FAIR LANES ILLINOIS BOWLING, INC. MERGED INTO FAIR LANES MARYLAND BOWLING, INC. SUBSEQUENT THERETO FAIR LANES MARYLAND BOWLING, INC MERGED INTO AMF BOWLING CENTERS, INC., A VIRGINIA CORPORATION, AND AS THEREAFTER AMENDED, MODIFIED, SUPPLEMENTED OR ASSIGNED, DEMISING THE LAND FOR A TERM OF YEARS BEGINNING MARCH 5, 1973 AND ENDING 240 FULL CALENDAR MONTHS THEREAFTER WITH EXTENSION RIGHTS.

**PARCEL 1:**

THAT PART OF LOT "S" DESCRIBED AS FOLLOWS: COMMENCING AT A POINT IN THE NORTHERLY LINE OF SAID LOT "S", 872.48 FEET WESTERLY TO THE NORTHEASTERLY CORNER OF SAID LOT "S", THENCE SOUTHERLY AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOT "S" A DISTANCE OF 365.00 FEET, THENCE WESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 296.00 FEET; THENCE NORTHERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE A DISTANCE OF 377.34 FEET, MORE OR LESS TO A POINT ON THE NORTHERLY LINE OF SAID LOT 'S', AND THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID LOT 'S', BEING THE ARC OF A CIRCLE CONVEX TO THE SOUTHWEST AND HAVING A RADIUS OF 975.40 FEET, A DISTANCE OF 155.12 FEET TO A POINT OF TANGENCY; THENCE EASTERLY ALONG THE NORTHERLY LINE OF LOT 'S', A DISTANCE OF 141.34 FEET TO THE POINT OF BEGINNING. IN ROLLING MEADOWS-UNIT NO. 8, BEING A SUBDIVISION IN THAT PART OF THE WEST 1/2 OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF KIRCHOFF ROAD, ACCORDING TO PLAT THEREOF FILED JULY 19, 1955 AS LR1608437, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

AN EASEMENT FOR SANITARY SEWER PURPOSES FOR THE BENEFIT OF PARCEL 1, AFORESAID, BEING A STRIP OF LAND 10.00 FEET IN WIDTH OVER A PART OF LOT 'T' IN ROLLING MEADOWS-UNIT NO. 8, BEING A SUBDIVISION IN THAT PART OF THE WEST 1/2 OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF KIRCHOFF ROAD, ACCORDING TO PLAT THEREOF FILED JULY 19, 1955 AS LR1608437, THE CENTER LINE OF SAID EASEMENT BEING A LINE DESCRIBED AS: COMMENCING AT A POINT ON THE NORTH LINE OF SAID LOT 'T', A DISTANCE OF 176.64 FEET WESTERLY OF THE

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NORTHWEST CORNER OF LOT 1371 IN SAID ROLLING MEADOWS UNIT 8; THENCE SOUTHWESTERLY ON A LINE FORMING AN ANGLE OF 68 DEGREES, 46 MINUTES, 50 SECONDS FROM WEST TO SOUTH WITH THE NORTHERLY LINE OF SAID LOT 'T', A DISTANCE OF THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

177.86 FEET TO A POINT; THENCE SOUTHERLY ON A LINE FORMING AN ANGLE OF 156 DEGREES, 56 MINUTES, 30 SECONDS, AS MEASURED FROM NORTH TO EAST OF SOUTH WITH THE LAST DESCRIBED LINE, A DISTANCE OF A 13.10 FEET TO THE NORTHERLY LINE OF MARTIN LANE, AS CREATED BY AMENDMENT TO EASEMENT DATED OCTOBER 23, 1959 AND FILED NOVEMBER 27, 1959 AS LR1898155, IN COOK COUNTY, ILLINOIS.

### PARCEL 3:

EASEMENT FOR SANITARY SEWER PURPOSES FOR THE BENEFIT OF PARCEL 1 AFORESAID OVER A TRACT OF LAND, LYING IN THAT PART OF LOT 'S' IN ROLLING MEADOWS-UNIT NO. 8, BEING A SUBDIVISION OF THAT PART OF THE WEST 1/2 OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF KIRCHOFF ROAD, ACCORDING TO PLAT THEREOF FILED JULY 19, 1955 AS LR1608437, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY LINE OF LOT 'S' AFORESAID, WHICH POINT IS 872.48 FEET WESTERLY OF THE NORTHEASTERLY CORNER OF SAID LOT 'S'; THENCE SOUTHERLY ALONG A LINE DRAWN AT RIGHT ANGLES TO SAID NORTHERLY LINE OF LOT 'S', A DISTANCE OF 365.00 FEET FOR THE ACTUAL PLACE OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG SAID LINE 152.98 FEET TO THE SOUTH LINE OF SAID LOT 'S'; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 'S', A DISTANCE OF 10.19 FEET; THENCE NORTHERLY TO A POINT ON THE SOUTH LINE OF PARCEL 1 AFORESAID, WHICH POINT IS 10.00 FEET WESTERLY OF THE POINT OF BEGINNING; THENCE EASTERLY TO THE POINT OF BEGINNING AS CREATED BY AGREEMENT DATED SEPTEMBER 22, 1958 AND FILED SEPTEMBER 26, 1958 IN BOOK 1439, PAGE 223 AS LR1820166 BETWEEN HILL HOMES, INC., AND AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST NUMBER 13775 AND IN DEED FILED MARCH 8, 1973 AS LR2678926, IN COOK COUNTY, ILLINOIS.

Tax # 02-36-105-009-0000