

**Illinois Anti-Predatory
Lending Database
Program**

Certificate of Exemption

**Report Mortgage Fraud
800-532-8785**

The property identified as: PIN: 20-24-325-012-0000

Address:

Street: 7037-7039 S. East End Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60649

Lender: VFC PARTNERS 10 LLC, a Delaware LLC

Borrower: VFC PROPERTIES 10 LLC, a Delaware LLC

Loan / Mortgage Amount: \$160,939.45

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Certificate number: DD82C8C7-D122-4235-8179-0A8101C3B0BC

Execution date: 11/30/2012

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This property is located within the program area and is exempt from the requirements of 765 ILCS 7770 et seq. because it is commercial property.

Certificate number: C742424F-8856-46C2-A842-9DB7E4C0F63B

Execution date: 11/30/2012

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Asset Name: 7037-7039 S East End Avenue
Asset No.: 8408981000
Cook County, Illinois

After Recording Return To:

FirstCity Servicing Corp.
Attn: Candy Perkins
P.O. Box 8216
Waco, Texas 76714-8216

MORTGAGE AND SECURITY AGREEMENT

VFC Properties 10 LLC
(Mortgagor)

to

VFC Partners 10 LLC
(Mortgagee)

Street Address of Property: 7037-7039 S East End Avenue, Gurnee, Illinois

Property Index No: 20-24-325-012-0000 & 20-24-325-013-0000

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Exhibit A - Description of Premises

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MORTGAGE AND SECURITY AGREEMENT

This Mortgage and Security Agreement, dated November 30, 2012, is made by VFC Properties 10 LLC, a Delaware limited liability company having a principal place of business at 6400 Imperial Drive, Waco, TX 76712 ("Mortgagor") in favor of VFC Partners 10 LLC, a Delaware limited liability company having a principal place of business at 6400 Imperial Drive, Waco, TX 76712 ("Mortgagee").

Section 1. Definitions. Each reference in this Mortgage to the following terms shall be deemed to have the following meaning:

Code: The Uniform Commercial Code as adopted and in force in the State in which the Premises is located, as from time to time in effect.

Deposited Funds: Any and all sums deposited with Mortgagee pursuant to Section 5.5 hereof for payment of Impositions and insurance premiums.

EPA: The United States Environmental Protection Agency.

Event of Default: The term "Event of Default" as defined in Section 8 hereof.

Governmental Authority: Each and every national, state and local governmental body, department, agency or subdivision having jurisdiction over Mortgagor or the Mortgaged Property or any part thereof or any use, operation or occupancy thereof.

Hazardous Waste - one or more of the following substances on or in the Premises at levels that require reporting or remediation pursuant to any applicable Hazardous Waste Laws:

(a) those substances included within the definitions of "hazardous substances," "hazardous materials" or "toxic substances," in CERCLA, RCRA, Toxic Substances Control Act, Federal Insecticide, Fungicide and Rodenticide Act and the Hazardous Materials Transportation Act (49 U.S.C. Sections 1801 et seq.);

(b) such other substances, materials and wastes which at the time in question are regulated as hazardous or toxic under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state, or local laws or regulations; and

(c) any material, waste or substance which is (i) asbestos, (ii) polychlorinated biphenyls, (c) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Sections 1251 et seq. (33 U.S.C. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. 1317), (iv) explosives, (v) radioactive materials, or (vi) petroleum, petroleum products or any fraction thereof.

Hazardous Waste Laws: All federal, state or local laws, statements, ordinances or regulations, now or hereafter in effect, pertaining to health, industrial hygiene, environmental conditions or the existence, release, generation, storage or disposal of any Hazardous Waste,

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including, but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., as amended.

Impositions: Any and all taxes, assessments, water and sewer charges, and other charges of whatever nature which may at any time be assessed against, levied upon or constitute a lien on the whole or any part of the Mortgaged Property, or which otherwise might become a lien prior to this Mortgage or otherwise have priority in the distribution of the proceeds of a judicial sale, and any and all interest, costs or penalties with respect to any and all unpaid taxes, assessments or charges.

Improvements: Any and all buildings and improvements now or hereafter located on the Premises.

Lease: Each and every agreement providing for use or occupancy of all or any part of the Mortgaged Property, whether written or oral, whether now existing or hereafter arising, and any and all amendments, renewals and extensions thereof.

Lessee: Any tenant pursuant to a Lease.

Licenses: Any and all franchises, licenses and permits, whether issued by a Governmental Authority or otherwise, relating to construction on the Premises or any part thereof, or the use, operation or occupancy of the Premises and Improvements or any part thereof.

Loan: The loan evidenced by the Note.

Loan Documents: The Note, the Security Instruments and the Other Documents.

Mortgage: This Mortgage and Security Agreement.

Mortgaged Property: The term "Mortgaged Property" as defined in Section 2 hereof.

Note: The promissory note of Mortgagor of even date herewith payable to the order of Mortgagee and any and all extensions, renewals and modifications thereof and substitutions therefor.

Obligations: The term "Obligations" as defined in Section 3 hereof.

Other Documents: Any document, instrument or agreement now or hereafter securing the Note or executed by Mortgagor in connection with the Loan, other than the Note, and the Security Instruments.

Permitted Encumbrances: All matters of record affecting the Mortgaged Property as of the date hereof.

Personal Property: Any and all fixtures, machinery, equipment and other personal property of every kind, now or hereafter located in or upon or affixed to the Premises or Improvements, or any part thereof, or now or hereafter used or to be used in connection with any present or future operation of the Premises or Improvements, or any part thereof, and now owned or hereafter acquired by Mortgagor, or in which Mortgagor now or hereafter has an interest, including, without

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limitation, any and all (a) heating, lighting, incinerating, refrigerating, ventilating, air conditioning, air cooling, lifting, fire extinguishing, plumbing, cleaning, communications and power equipment and apparatus, (b) gas, water and electrical equipment, (c) elevators, escalators, switchboards, engines, motors, tanks, pumps, partitions, conduits, ducts and compressors, (d) electrical and/or gas appliances, incinerators, carpeting, furniture and furnishings, draperies, storm windows and doors, and screens and awnings, and (e) Licenses; and any and all renewals of, replacements, accessions or additions to, substitutions for and proceeds of any and all of the foregoing.

Premises: The real property described on Exhibit A attached hereto and incorporated herein by reference.

Proceeds: Any and all proceeds payable to Mortgagor, or paid for or with respect to or as a result of damage or loss to the Premises, Improvements and Personal Property, or any part thereof, including, without limitation, insurance proceeds, and all awards in connection with any condemnation or other taking of the Premises, Improvements and Personal Property, or any part thereof, or for conveyance in lieu thereof.

Rents: Any and all rents and other payments of every kind (other than tenant security deposits) due or payable and to become due or payable to Mortgagor by virtue of the Leases, or otherwise due or payable and to become due or payable to Mortgagor as the result of any use, possession or occupancy of all or any part of the Mortgaged Property.

Security Instruments: (a) this Mortgage, (b) a Collateral Assignment of Leases and Rents of even date herewith from Mortgagor to Mortgagee, and (c) UCC-1 Financing Statements perfecting the security interests granted herein.

Senior Loan Agreement: Any loan agreement evidencing a loan to Mortgagee which is secured by, among other things, Mortgagee's interest in the Note and the other Loan Documents.

Section 2. Granting Clause.

For consideration paid and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Mortgagor (a) has granted, conveyed, bargained, sold, aliened, enfeoffed, released, confirmed and mortgaged, with Mortgage Covenants, and by these presents does grant, convey, bargain, sell, alien, enfeoff, release, confirm and mortgage unto Mortgagee, its successors and assigns, with Mortgage Covenants, and (b) hereby grants to Mortgagee, its successors and assigns a security interest in the following described real and personal property:

- (i) the Premises;
- (ii) the Improvements;
- (iii) the Personal Property;
- (iv) any and all easements, rights of way, privileges, hereditaments and appurtenances now or hereafter belonging to or inuring to the benefit of the Premises and/or Improvements or any part thereof; all right, title and

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interest of Mortgagor in and to the land lying within any street or roadway adjoining the Premises or any part thereof; and all right, title and interest of Mortgagor in and to any now or hereafter vacated streets or roads adjoining the Premises or any part thereof;

(v) any and all issues, benefits and profits of the Premises and/or Improvements;

(vi) the Leases and Rents;

(vii) the Proceeds;

(viii) the Deposited Funds;

(ix) any and all records and books of account now or hereafter maintained by Mortgagor in connection with the operation of the Premises, Improvements and Personal Property or any part thereof; and

(x) all of Mortgagor's right, title and interest in and to any name under which the Premises and/or Improvements may at any time be operated and any variation thereof and the goodwill of Mortgagor in connection therewith.

All of which Premises, Improvements, Personal Property and other property hereby granted, sold and conveyed, or intended so to be, are collectively referred to as the "Mortgaged Property."

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee, its successors and assigns, for its and their own use, forever.

PROVIDED ALWAYS, and this instrument is made upon the statutory conditions and the additional express condition that, if Mortgagor pays to Mortgagee the principal sum mentioned in the Note, the interest thereon and all other sums payable by Mortgagor to Mortgagee as are secured by this Mortgage, in accordance with the provisions of the Note, this Mortgage and the other Loan Documents, at the times and in the manner specified, without offset, deduction, fraud or delay, and Mortgagor performs and complies with all the agreements, conditions, covenants, provisions and stipulations contained in the Note, this Mortgage and the other Loan Documents, then this Mortgage and the estate hereby granted shall cease and become void.

MORTGAGOR REPRESENTS, COVENANTS AND WARRANTS to and with Mortgagee that until the indebtedness and other sums secured hereby is fully repaid:

Section 3. Obligations Secured.

This conveyance is made to secure the following obligations (collectively, the "Obligations"):

(i) payment of ONE HUNDRED SIXTY THOUSAND NINE HUNDRED THIRTY NINE AND 45/100 DOLLARS (\$160,939.45), as evidenced by the Note, at the times, in the manner and with the interest all as provided in said

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Note;

(ii) payment by Mortgagor to Mortgagee of any and all sums expended or advanced by Mortgagee pursuant to any term or provision of this Mortgage;

(iii) payment by Mortgagor of all unpaid balances of advances made by Mortgagee, with respect to the Mortgaged Property, for the payment of taxes, assessments, maintenance charges, insurance premiums or costs incurred for the protection of the Mortgaged Property or the lien of the Mortgage and expenses incurred by the Mortgagee by reason of default by the Mortgagor under the Mortgage; and

(iv) performance and observance by Mortgagor of each and every covenant, condition and obligation contained in the Note, this Mortgage, the other Security Instruments and any other document, instrument or agreement now or hereafter given by Mortgagor as additional security for the payment of the indebtedness hereby secured, or otherwise executed in connection therewith.

Section 4. Representation and Warranties. All representations and warranties contained in the Senior Loan Agreement, if any, to the extent that such representations and warranties pertain to Mortgagor or the Mortgaged Property, are (a) hereby incorporated by reference and (b) are fully applicable to Mortgagor and the Mortgaged Property.

Section 5. Mortgagor's Covenants. The Mortgagor covenants and agrees with Mortgagee as follows:

5.1. Title.

(a) Mortgagor has good and clear, record and marketable title in fee simple to the Mortgaged Property subject only to the Permitted Encumbrances; this Mortgage is and will remain a valid and enforceable lien on the Mortgaged Property; Mortgagor has full power and lawful authority to grant, sell and convey the Mortgaged Property in the manner and form herein done; and Mortgagor will preserve such title, will forever warrant and defend the same to Mortgagee and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons whatsoever, except the holders of the Permitted Encumbrances.

(b) To the extent required by the Senior Loan Agreement, if any, Mortgagor agrees to deliver to Mortgagee a title insurance policy with respect to the Mortgaged Property in accordance with the terms of such Senior Loan Agreement.

5.2. Payment and Performance of Obligations.

(a) Mortgagor shall pay all indebtedness hereby secured at the time or times and in the manner provided herein, in the Note, or in any other instrument secured hereby.

(b) Mortgagor will perform and observe all the terms, provisions, covenants and conditions imposed upon Mortgagor under each and every of the Loan Documents,

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all at the time or times and in the manner provided therein.

5.3. Insurance.

(a) Mortgagor shall keep the Improvements continuously insured against loss by fire and the risks covered under a so-called "extended coverage endorsement", flood, explosion of boilers, heating apparatus and other pressure vessels, and such other hazards, casualties and contingencies as Mortgagee from time to time reasonably may require, in an amount equal to one hundred percent (100%) of the replacement cost of the Improvements. The insurance policy evidencing such coverage: (i) shall be endorsed with an Agreed Amount Endorsement, (ii) shall be endorsed with a Loss of Rents Endorsement for a six (6) month period and (iii) shall contain a deductible satisfactory to Mortgagee. The amount of such insurance coverage shall be reviewed not less than annually and increased whenever necessary so as to provide the required coverage.

(b) Mortgagor shall continuously keep in full force and effect a policy of public liability insurance and (if relevant) elevator insurance, against claims for bodily injury, death or property damage occurring upon, in or about the Mortgaged Property or any part thereof in which the limits of liability shall not be less than One Hundred Thousand Dollars (\$100,000) per person and Three Hundred Thousand Dollars (\$300,000) per accident and in which the property damage limits shall not be less than Fifty Thousand Dollars (\$50,000) together with an all risk liability policy in the amount of One Million Dollars (\$1,000,000) which shall be in addition to the limits above set forth. Mortgagor agrees to increase the limits of such liability insurance to such higher amounts as Mortgagee from time to time reasonably may require.

(c) All such insurance shall be evidenced by valid and enforceable policies in form and substance satisfactory to Mortgagee. Without limiting the generality of the foregoing: (i) all such insurance policies shall contain an endorsement requiring at least thirty (30) days written notice to Mortgagee prior to cancellation or change in the coverage, scope or amount of any such policy or policies, and (ii) any and all policies evidencing casualty insurance shall provide that any and all loss shall be payable to Mortgagee and such loss shall be payable to Mortgagee notwithstanding any act or omission of Mortgagor which might otherwise result in cancellation or forfeiture of said insurance.

(d) Mortgagor shall deliver to Mortgagee evidence satisfactory to Mortgagee of the issuance of renewal or replacement policies not less than thirty (30) days prior to the expiration date of the policy to be renewed or replaced, accompanied, if requested by Mortgagee, by evidence satisfactory to Mortgagee that all premiums payable with respect to such policies have been paid in full by Mortgagor.

(e) From time to time, upon the request of Mortgagee, Mortgagor shall provide Mortgagee with the originals of all policies evidencing the insurance coverage required under this Mortgage. In any event Mortgagor shall furnish to Mortgagee (a) concurrently with the execution of this Mortgage, a certificate of insurance or other evidence of insurance satisfactory to Mortgagee evidencing that Mortgagor has in full force and effect the insurance coverage required hereunder, and (b) from time to time at the request of Mortgagee, a certificate of insurance or other evidence of insurance satisfactory to Mortgagee evidencing that Mortgagor has in full force and effect the insurance coverage required hereunder.

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(f) Mortgagor shall have the right of free choice in the selection of the agent or insurer through or by which the insurance required hereunder is to be placed; provided, however, said insurer is authorized to write such insurance in the state in which the Premises is located, has a licensed resident agent in said state and has, at all times while this mortgage is in effect, a general policyholder's rating of A or A+ in Best's latest rating guide.

(g) Mortgagee shall be, and is hereby, authorized and empowered, for and in the name or names and on behalf of Mortgagor and/or Mortgagee, and for the purposes hereinafter set forth, shall be and is hereby made, constituted and appointed the true and lawful attorney-in-fact of Mortgagor (with full power of substitution and revocation), and in the sole and uncontrolled discretion of said attorney, (i) to demand, adjust, sue for, settle, compromise and collect any amounts due under such insurance policies in the event of loss, and (ii) to give releases for any and all amounts received in settlement of loss under such policies; provided, however, so long as no Event of Default exists, Mortgagee shall not exercise such power of attorney unless and until three (3) months have elapsed from the date of such loss without settlement having been made. Unless the settlement of such loss is in excess of the amount of the Obligations, no settlement therefor shall be made without the prior written consent of Mortgagee. The foregoing appointment, being coupled with an interest, is irrevocable until the Obligations are paid and otherwise satisfied in full.

(h) If the cost of restoring the damage to the Mortgaged Property, as determined by Mortgagee, does not exceed one-third (1/3) of the original principal amount of the Note and if Mortgagor is not then in default, and there is then no uncured Event of Default under this Mortgage or any of the other Loan Documents, Mortgagee shall agree to permit such insurance proceeds to be used to reimburse Mortgagor for the cost of rebuilding the Improvements in accordance with all applicable laws. Mortgagor agrees to commence promptly the rebuilding of the Improvements in a manner as to be of at least equal value and quality and substantially the same character as the Improvements were prior to such damage or destruction, and Mortgagor shall diligently complete such rebuilding as promptly thereafter as possible. Such proceeds shall be made available, from time to time, upon Mortgagee being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of liens, contractors' certifications and other evidence of cost and of payments as Mortgagee may require and upon Mortgagor being otherwise in compliance with the provisions of the Loan Documents. If the estimated cost of the work exceeds five percent (5%) of the original principal amount of the Note, Mortgagee shall also be furnished for its approval all plans and specifications and all construction contracts for such rebuilding prior to commencement of the rebuilding or restoration. All payments made prior to final completion of the work shall be subject to customary conditions for disbursing construction loans as determined by Mortgagee. The undisbursed balance of insurance proceeds shall at all times be sufficient to pay for the cost of completion of the Improvements free and clear of liens and if such proceeds are insufficient, Mortgagor shall deposit the amount of such deficiency with Mortgagee prior to the disbursement of any insurance proceeds.

(i) If Mortgagee shall by any manner acquire title to the Mortgaged Property, it shall thereupon become the sole and absolute owner of all insurance policies held by or required hereunder to be delivered to Mortgagee, with the sole right to collect and retain all unearned premiums and dividends thereon, and Mortgagor shall only be entitled to a credit, in reduction of the then outstanding indebtedness secured hereby, in the amount of the short rate cancellation refund. Without limiting the generality of the foregoing, in the event of foreclosure of

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this Mortgage or any transfer of title to the Mortgaged Property to a third-party purchaser pursuant to the power(s) in this Mortgage granted Mortgagee, Mortgagee shall be and is hereby authorized and empowered, for and in the name or names and on behalf of Mortgagor and/or Mortgagee, and for the purposes hereinafter set forth, shall be and is hereby made, constituted and appointed the true and lawful attorney-in-fact of Mortgagor (with full power of substitution and revocation) in the name place and stead of Mortgagor, and in the sole and uncontrolled discretion of said attorney, to surrender up the policies of insurance covering the Mortgaged Property and any part thereof and to collect any amounts due thereunder or, at its option, to transfer all right, title and interest in and to said policies and the proceeds thereof to any purchaser of the Mortgaged Property or any part thereof without obligation to account therefor to any person claiming title to the Mortgaged Property; provided, however, that any amounts received by Mortgagee under said policies by way of refunds, dividends or otherwise, as aforesaid, shall be applied to the payment of the Obligations, and any surplus shall be paid over to Mortgagor. The foregoing appointment being coupled with an interest is irrevocable.

5.4. Payment of Taxes and Liens.

(a) Mortgagor shall pay, not later than the date on which any penalty, fine or interest shall be due and payable with respect thereto, all Impositions and shall furnish to Mortgagee, promptly after payment of the same, certificates, receipts or other evidence reasonably satisfactory to Mortgagee of such payment; provided, however, that Mortgagor shall not be required to pay and discharge any such Imposition if and so long as (i) the validity thereof shall be contested by Mortgagor with diligence and in good faith by appropriate proceedings and (ii) Mortgagor shall have deposited with Mortgagee a sum equal to the amount being so contested and any additional charge, penalty or expense which may be incurred as a result of such contest; and provided further, however, that any such Imposition and any such additional charge, penalty or expense shall be paid in full before the Mortgaged Property, or any part thereof, shall be seized and sold in satisfaction thereof.

(b) Mortgagor shall pay, when the same shall become due and payable, all claims and demands of mechanics, materialmen, laborers and others which, if unpaid, might result in or permit the creation of a lien on the Mortgaged Property or any part thereof; provided, however, that Mortgagor shall not be required to pay any such claim or demand, if and so long as (i) the validity thereof shall be contested by Mortgagor with diligence and in good faith by appropriate proceedings and (ii) in the event that such claim or demand results in a lien or notice of record against the Mortgaged Property or any part thereof, Mortgagor shall have bonded or otherwise caused such lien to be removed or discharged.

(c) Mortgagor shall pay to Mortgagee, within thirty (30) days after Mortgagee's demand, an amount equal to any and all taxes, assessments or charges of whatever nature (other than taxes on the net income of Mortgagee) which may at any time be assessed against Mortgagee with respect to the Note or this Mortgage or its ownership or holding thereof, whether under statutes now or hereafter in effect. In the event that any such tax, assessment or charge is not or, under applicable law, cannot be so paid by Mortgagor then, at the option of Mortgagee, the Obligations shall become immediately due and payable.

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5.5. Insurance and Tax Deposits.

Mortgagee, at any time, upon ten (10) days notice to Mortgagor, may require Mortgagor to pay to Mortgagee, on the first day of each calendar month, a sum equal to (a) one-twelfth (1/12) of the Impositions and (b) one-twelfth (1/12) of the annual premiums for the insurance required hereunder to be maintained on the Mortgaged Property, the respective amounts of such Impositions and premiums to be reasonably estimated from time to time by Mortgagee. Mortgagee shall apply the Deposited Funds to the payment of such Impositions and premiums and shall render an annual accounting to Mortgagor of all disbursements of the Deposited Funds. Although each such monthly payment of Deposited Fund is to be in a lump sum, each component thereof shall be deemed to be held separately by Mortgagor for, and shall be applied only to, the particular item for which payment was made by Mortgagor, unless Mortgagee, in its discretion, elects otherwise. If at any time Mortgagee estimates that there shall or will not be on deposit with it, at least one (1) month prior to the due date (a) of any item constituting part of the Impositions and/or (b) of any annual insurance premium, a sum sufficient for the payment of such item and/or premium in full, Mortgagor, upon demand, shall pay the amount of such deficiency to Mortgagee notwithstanding that there may already be deposited with Mortgagee sums for the payment of other items which are not yet due. If the amount of the Deposited Funds shall exceed the amount necessary to pay such Impositions and premiums for the then current year, such excess shall be credited against future monthly deposits required hereunder. Unless otherwise required by applicable law, no interest shall be paid on the Deposited Funds, and the Deposited Funds may be commingled with Mortgagee's general funds. Upon payment and other satisfaction in full of the Obligations, any excess Deposited Funds shall be refunded to Mortgagor. Upon the occurrence of any Event of Default, Mortgagee may apply against the Obligations, in such manner as Mortgagee may determine, any or all of the Deposited Funds then held by Mortgagee.

5.6. Maintenance.

(a) Mortgagor shall at all times keep and maintain the Mortgaged Property and each part thereof in sound condition and in a first-class state of decoration and repair.

(b) Mortgagor shall not: permit any waste of the Mortgaged Property; permit the violation of any law, ordinance or rule or regulation of any Governmental Authority affecting the same or the use thereof; permit any conditions to exist which would wholly or partially invalidate any insurance on the Mortgaged Property; or do or permit anything to be done to the Mortgaged Property or any part thereof that might diminish the value thereof.

(c) Mortgagor, within thirty (30) days after demand by Mortgagee (or immediately upon demand in cases which Mortgagee deems to be an emergency), shall make such repairs, replacements, renewals, or additions, or perform such items of maintenance to the Mortgaged Property or any part thereof as Mortgagee reasonably may require in order to maintain the Mortgaged Property at the standards required by this Section.

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5.7. Alterations and Additions.

Mortgagor shall not remove or demolish any Improvements, or make any material alteration or addition to the Improvements, including, without limitation, changes to the character, design, structure or size of the Improvements, without the prior written consent of the Mortgagee.

5.8. Management and Operation.

(a) Mortgagor shall at all times provide management for the Mortgaged Property reasonably satisfactory to Mortgagee.

(b) Mortgagor shall continuously operate the Mortgaged Property for the lawfully permitted uses thereof.

(c) Mortgagor shall employ such watchmen and other security personnel to protect and guard the Mortgaged Property as is reasonably appropriate.

5.9. Compliance with Laws and Restrictions.

(a) Mortgagor promptly shall comply with all present and future laws, ordinances, rules, regulations, directives and other requirements of all Governmental Authorities; provided, however, that Mortgagor may postpone such compliance (provided such non-compliance shall not (i) subject Mortgagee to liability, criminal prosecution or any other penalty, (ii) impair the value, or jeopardize the safety or condition, of the Mortgaged Property, or (iii) constitute a default under any Lease), if and so long as the validity or legality of any such governmental requirement shall be contested by Mortgagor with diligence and in good faith by appropriate proceedings.

(b) Mortgagor shall comply with all restrictive covenants and other private restrictions, if any, applicable to the Mortgaged Property.

5.10. Hazardous Waste.

(a) Mortgagor hereby warrants and represents to Mortgagee that (i) Mortgagor has never released, generated, stored or disposed of any Hazardous Waste on the Mortgaged Property, (ii) Mortgagor is not aware of the existence, release or threat of release of any Hazardous Waste on or from the Mortgaged Property or on or from any property adjacent to the Mortgaged Property except as may have heretofore been disclosed to Mortgagee in an environmental site assessment for the Mortgaged Property, (iii) Mortgagor has not received any notice, order, claim or demand from the EPA or any Governmental Authority with respect to the existence, release or threat of release of any Hazardous Waste on or from the Mortgaged Property and (iv) there has been no change in the condition of the Mortgaged Property that would result in a change of any of the conclusions or recommendations set forth in any such environmental site assessment.

(b) Mortgagor shall not release, generate, store or dispose of any Hazardous Waste on the Mortgaged Property or on any property adjacent to the Mortgaged Property.

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(c) Mortgagor shall immediately notify Mortgagee in writing of (i) any and all enforcement, clean-up, removal or other action instituted or threatened by the EPA or any Governmental Authority pursuant to any Hazardous Waste Laws, and (ii) any and all claims made or threatened by any third party against Mortgagor or the Mortgaged Property or any part thereof, relating to the existence of, or damage, loss or injury from, any Hazardous Waste; and Mortgagee, to the extent permitted by applicable law, shall have the right to join and participate in, as a party if it so elects, any proceedings or actions initiated in connection with any such claim and to have all of its costs and expenses, including, without limitation, reasonable attorney's fees, in connection therewith paid by Mortgagor.

(d) In the event that any Hazardous Waste is found on or in the Mortgaged Property that is required by any Hazardous Waste Law to be removed, Mortgagor shall immediately contain and remove the same in compliance with all Hazardous Waste Laws.

(e) Mortgagor agrees to indemnify and hold Mortgagee harmless from and against any and all claims, liabilities, costs and expenses incurred by Mortgagee, including, without limitation, costs of litigation and reasonable attorney's fees, arising from the release, existence or removal of, any Hazardous Waste on or in the Mortgaged Property or on any properties adjacent to the Mortgaged Property. THIS RIGHT OF INDEMNIFICATION SHALL SURVIVE THE PAYMENT IN FULL OF THE NOTE, NOTWITHSTANDING ANY DISCHARGE OF THIS MORTGAGE.

(f) Mortgagee, at its election and in its sole discretion, at any time and from time to time, whether or not an Event of Default shall exist hereunder, may cause one or more environmental site assessments of the Mortgaged Property to be undertaken. Environmental site assessments may include, without limitation, a detailed visual inspection of the Mortgaged Property and any part thereof, as well as the taking of soil samples, water samples and such other investigation or analysis as is necessary or appropriate for a complete assessment of whether any Hazardous Waste exists on or in the Mortgaged Property or any part thereof and the compliance of the Mortgaged Property with all Hazardous Waste Laws. Mortgagee may cause any such environmental site assessment to be undertaken (i) when Mortgagee has reason to suspect that Hazardous Waste (or levels thereof) not theretofore reported may be present on the Mortgaged Property, or any part thereof, and Mortgagor has failed to cause such an assessment to be conducted within sixty (60) days following Mortgagee's written request therefor, or (ii) following the occurrence of an Event of Default and in contemplation of foreclosure of this Mortgage. In either event, Mortgagor shall pay the cost of such environmental site assessment to Mortgagee on demand of Mortgagee, and until paid the cost thereof shall be added to the unpaid principal of the Obligations, shall bear interest at the rate set forth in the Note, and the payment thereof, together with such interest, shall be secured by the lien of this Mortgage and the other Security Instruments.

(g) Mortgagee, at its election and in its sole discretion, may (but shall not be obligated to) cure any failure on the part of Mortgagor or any Lessee or other user of the Mortgaged Property or any part thereof (any such Lessee or other user being, in this Section 5, hereinafter referred to as a "User") to comply with the Hazardous Waste Laws; such cure may include, without limitation, the following actions:

(i) arranging for the cleanup or containment of Hazardous Waste

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found in, on or near the Mortgaged Property and paying for such cleanup and containment costs and other costs associated therewith;

(ii) paying on behalf of Mortgagor or any User, any fines or penalties imposed on Mortgagor or any User by the EPA or any Governmental Authority in connection with Hazardous Waste; and

(iii) making any other payment or performing any other act which may prevent a release of Hazardous Waste, facilitate the cleanup thereof, or prevent a lien from attaching to the Mortgaged Property.

Any partial exercise by Mortgagee of the remedies hereinabove set forth or any partial undertaking on the part of Mortgagee to cure the failure of Mortgagor or any User to comply with the Hazardous Waste Laws, shall not obligate Mortgagee to complete any action taken or require Mortgagee to expend further sums to cure Mortgagor's or any User's noncompliance; and the exercise of any such remedies shall not place upon the Mortgagee any responsibility for the operation, control, care, management or repair of the Mortgaged Property, or make the Mortgagee the "owner" or "operator" of the Mortgaged Property or a "responsible party" within the meaning of any of the Hazardous Waste Laws. Any amounts paid or costs incurred by the Mortgagee in the exercise of any of its rights under this subsection 5.10(g) together with interest thereon at the rate set forth in the Note from the date of payment, shall be paid by Mortgagor on demand of Mortgagee, and until paid shall be added to the unpaid principal of the Obligations, shall bear interest at the rate set forth in the Note, and the payment thereof, together with such interest, shall be secured by the lien of this Mortgage and by the other Security Instruments. Mortgagee, by making any such payment or incurring any such costs, shall be subrogated to any rights of Mortgagor or any User to seek reimbursement from any third parties, including, without limitation, any predecessor in interest to Mortgagor's title to the Mortgaged Property or any part thereof.

5.11. Condemnation.

(a) Forthwith upon the receipt by Mortgagor of notice of the institution of any proceeding or negotiations for the taking of the Mortgaged Property, or any part thereof, in condemnation or by the exercise of the power of eminent domain, Mortgagor shall give notice thereof to Mortgagee. Mortgagee may appear in any such proceedings and participate in any such negotiations and may be represented by counsel. Mortgagor, notwithstanding that Mortgagee may not be a party to any such proceeding, will promptly give to Mortgagee copies of all notices, pleadings, judgments, determinations and other papers received by Mortgagor therein. Mortgagor will not enter into any agreement for the taking of the Mortgaged Property, or any part thereof, with anyone authorized to acquire the same in condemnation or by eminent domain unless Mortgagee shall first have consented thereto in writing.

(b) Any award, whether paid as a result of a negotiated settlement or judgment, shall be paid to Mortgagee, and Mortgagee shall have the right and is hereby constituted and appointed the true and lawful attorney of Mortgagor, in the name and stead of Mortgagor, and in the discretion of said attorney, to collect and receive the total amount of such award, including interest, and to give proper receipts and acquittances therefor. The foregoing appointment, being coupled with an interest, is irrevocable until the Obligations are paid and otherwise satisfied in full.

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(c) In the event of any taking of the Premises and/or Improvements or any part thereof in condemnation or by exercise of the power of eminent domain, at the option of Mortgagee, the Obligations shall become immediately due and payable, and, at the option of Mortgagee, all awards paid or payable to Mortgagor on account of such taking shall be applied to the payment and discharge of the Obligations, whether or not then due, such application to be in the following order of priority: (i) payment of all amounts expended, advanced or incurred by Mortgagee in the discharge of Mortgagor's obligations hereunder; (ii) payment of all expenses referenced in subsection 5.19 hereof; (iii) payment of accrued interest under the Note; (iv) payment of unpaid principal under the Note; and (v) payment and satisfaction of any and all other Obligations. To the extent that such award or awards exceed the amount required to pay in full the principal and interest under the Note and all other sums and charges then secured hereby, Mortgagee shall pay over to the person or persons legally entitled thereto the amount of such excess; provided, however, that until the actual vesting of title in the condemning authority in such proceeding or pursuant to any agreement in lieu or in settlement thereof, the obligations of Mortgagor to pay, perform and observe the terms, covenants and conditions of the Note and this Mortgage shall continue unimpaired. Except as may otherwise be required by law, in no event shall Mortgagee be required to satisfy or discharge this Mortgage until the Obligations are paid and otherwise satisfied in full.

(d) Mortgagor shall pay interest on the Note and other indebtedness forming part of the Obligations at the rate or rates provided for therein, notwithstanding any lesser rate required to be paid by the authorities making such award or awards.

5.12. Records, Financial Statements and Inspections.

(a) Mortgagor will keep proper and separate books of account, in accordance with generally accepted accounting principles, and make full and true entries of all dealings and transactions of every kind relating to the Mortgaged Property.

(b) Mortgagor shall furnish to Mortgagee Financial Reports, Tax Escrow Reports and Tenant Security Deposits Reports in accordance with the Senior Loan Agreement, if any.

(c) Forthwith upon Mortgagee's request, Mortgagor shall furnish such other information bearing on the financial condition of Mortgagor, and the status and progress of the operation of the Mortgaged Property, as Mortgagee may from time to time reasonably request.

(d) All books and records of Mortgagor kept with respect to the Mortgaged Property shall be open to inspection by Mortgagee at all reasonable times, and Mortgagor shall permit Mortgagee to enter upon the Mortgaged Property at all reasonable times to view and inspect the same. Upon the occurrence of any Event of Default and on demand of Mortgagee, Mortgagor forthwith shall deliver to Mortgagee all such books and records.

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5.13. Alienation.

(a) Except for the execution of Leases in accordance with the terms of a Collateral Assignment of Leases and Rents of even date from Mortgagor to Mortgagee, Mortgagor shall not, directly or indirectly, sell, convey, mortgage, pledge, hypothecate, encumber, lease, assign or otherwise transfer the Mortgaged Property or any part thereof or any interest therein without the prior written consent of Mortgagee which shall not be unreasonably withheld.

(b) Without limiting the generality of the foregoing, Mortgagor will not create, join or consent to any private restrictive covenant or other restriction affecting the Mortgaged Property or any part thereof, without the prior written consent of Mortgagee.

5.14. Senior or Junior Indebtedness.

Mortgagor shall pay any and all indebtedness secured by any mortgage creating a senior and prior lien, if any, or junior and subordinate lien, if any, on the whole or any part of the Mortgaged Property and perform all covenants, terms and conditions contained in any such mortgage on the part of Mortgagor to be performed and observed, all within the periods provided for payment, performance and observance in any such mortgage; provided, however, the foregoing shall not be deemed to be a consent by Mortgagee to the creation of any such senior or junior indebtedness.

5.15. Preservation of Easements, Licenses and Zoning.

(a) Mortgagor, to the extent reasonably within its control, shall maintain, preserve and renew (i) any and all easements, rights of way, privileges and hereditaments now or hereafter belong or inuring to the benefit of the Premises and/or Improvements or any part thereof, and (ii) any and all Licenses.

(b) Without the prior consent of the Mortgagee, Mortgagor will not initiate, create, join in or consent to any change of zoning with respect to the Mortgaged Property or any part thereof.

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5.16. Mortgagee's Right to Pay or Perform Mortgagor's Covenants.

If Mortgagor fails, as required under this Mortgage, (a) to maintain insurance or pay the premiums therefor, (b) to pay and furnish receipts for all Impositions, (c) to pay for all labor and materials or to otherwise pay any claim which might result in or permit the creation of a lien on the Mortgaged Property or any part thereof, (d) to maintain or repair the Improvements, (e) to provide management or security for the Mortgaged Property, or (f) to pay any indebtedness secured by a lien or encumbrance on the Mortgaged Property or any part thereof (other than the Note), or if Mortgagor fails to otherwise pay, perform or observe any of Mortgagor's other covenants contained in this Mortgage, Mortgagee, at its option may procure such insurance, pay such Impositions and any penalty and interest thereon, redeem the Mortgaged Property or any part thereof from any tax sale, procure such receipts, pay for such labor and materials, pay any such claim, do such maintenance or make such repairs, retain and pay for such management and/or security, pay any and all such liens and encumbrances and/or otherwise disburse such sums and/or take such action as Mortgagee deems necessary or appropriate (a) to cause compliance with Mortgagor's covenants under this Mortgage and/or (b) to protect Mortgagee's interest and/or the Mortgaged Property or any part thereof; and all amounts advanced by Mortgagee for the payment thereof and all expenses so incurred by Mortgagee, unless otherwise agreed in writing, shall be paid by Mortgagor to Mortgagee on demand of Mortgagee, and until paid such amounts shall be added to the unpaid principal of the Obligations, shall bear interest at the rate set forth in the Note; and the payment thereof, together with such interest, shall be secured by the lien of this Mortgage and the other Security Instruments. The failure of Mortgagee to take any such action shall not render Mortgagee liable to Mortgagor or any third party.

5.17. Proceedings and Indemnification.

(a) If Mortgagor becomes a party defendant to any action or other proceeding brought by a third party concerning or otherwise affecting this Mortgage or the construction or operation thereof, the Loan or the Mortgaged Property or any part thereof or any interest therein, Mortgagor shall:

(i) promptly inform Mortgagee of the commencement thereof and thereafter timely apprise Mortgagee of all material developments therein;

(ii) not take any position therein which would materially and adversely affect the interest of the Mortgagee;

(iii) cooperate fully with Mortgagee with respect thereto; and

(iv) consent to Mortgagee's becoming a party thereto, at the election of Mortgagee and to the extent permitted by law.

(b) If Mortgagee becomes a party defendant to any action or other proceeding described in subsection 5.17(a) above, whether before or after payment in full of the Obligations, Mortgagor shall indemnify, defend and hold Mortgagee harmless from any and all liability by reason of each and every such action, including, without limitation, reasonable attorneys' fees and expenses incurred by Mortgagee in any such action, whether or not any such action is prosecuted to judgment. This right of indemnification shall survive the payment in full of the Note,

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notwithstanding any discharge of this Mortgage.

5.18. Further Assurances.

(a) Mortgagor shall not do or suffer any act or thing to be done which would impair all or any part of the security for the payment of the Obligations or this Mortgage or the other Security Instruments.

(b) Mortgagor, within ten (10) days after request by Mortgagee, shall furnish to Mortgagee a written statement, duly acknowledged, of the amount of the unpaid balance of the Note and of the existence of any offsets or defenses against the Note, and containing such other information Mortgagee may reasonably request.

(c) At any time and from time to time until payment in full of the Obligations, upon request of Mortgagee, Mortgagor shall promptly execute, acknowledge and deliver to Mortgagee such additional instruments, and shall take such further actions, all at the expense of Mortgagor, as Mortgagee may reasonably require to further confirm, evidence or protect the lien of this Mortgage, the security position of Mortgagee with respect to the Mortgaged Property or any part thereof and the property and rights hereby conveyed to or conferred on Mortgagee, or intended to so be, including, without limitation, the execution, acknowledgement and delivery of additional mortgages, security agreements, financing statements, continuation statements and the like.

5.19. Expenses.

(a) Mortgagor shall pay to Mortgagee, on demand of Mortgagee, any and all expenses reasonably incurred or paid by Mortgagee in connection with or incident to (i) negotiation, closing and administration of the Loan, including, without limitation, the examination of the title to the Premises, the cost of title insurance, charges for examining public records in connection with advances of the proceeds of the Loan, inspections, drawing of papers, recording and filing fees, revenue stamps, if any, and reasonable fees and disbursements of attorneys, architects and engineers engaged by the Mortgagee, and (ii) the collection or enforcement of any or all of the Obligations or rights of the Mortgagee under the Note, the Security Instruments or any Other Document, whether by litigation, foreclosure or otherwise, including, without limitation, attorneys' fees to the extent permitted by law and further including, without limitation, attorneys' fees for any and all appellate proceedings, to the extent permitted by law.

(b) Mortgagor agrees that maintenance charges and costs incurred to protect the Mortgaged Property pursuant to Section 5.6 hereof or the lien of this Mortgage shall include, without limitation, expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) if the Mortgaged Property or any portion thereof constitutes one or more condominium units under a condominium declaration, master deed or other documentation, assessments imposed upon the owner thereof, (ii) if any of the Mortgaged Property consists of an interest in a leasehold estate under a lease or sublease, rentals or other payments required to be made by the terms of the lease or sublease; (iii) premiums upon casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, without regard to the amount or type of insurance in effect at the time any receiver or mortgagee takes possession of the Mortgaged Property; (iv) payments required or deemed by Mortgagee to be for the

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benefit of the Mortgaged Property or required to be made by the owner of the Mortgaged Property under any grant or declaration of easement, easement agreement, reciprocal easement agreement, agreement with any adjoining land owners or other instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Property; (v) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Property is a member in any way affecting the Mortgaged Property; and (vi) operating deficits incurred by Mortgagee in possession or reimbursed by Mortgagee to any receiver.

(c) Mortgagor agrees that expenses incurred by Mortgagee by reason of a default by Mortgagor under this Mortgage shall include without limitation (i) attorneys' fees and other costs incurred in connection with the foreclosure of this Mortgage, or execution upon the Note or enforcement of the other remedies provided in this Mortgage or the other Loan Documents and in connection with any other litigation or administrative proceeding, including appellate proceedings, to which the Mortgagee may be or become or be threatened or contemplated to be a party, including probate and bankruptcy proceedings, or in the preparation for the commencement or defense of any such suit or proceeding, including filing fees; (ii) appraisers' fees; (iii) outlays for documents and expert evidence, witness fees, stenographer's charges, and publication costs; (iv) costs (which may be estimated as to items to be expended after entry of judgment) for procuring all such abstracts of title, title charges and examinations, title insurance policies and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute or defend such suit, or in case of foreclosure, to evidence to bidders at any sale which may be had pursuant to the foreclosure judgment the true condition of the title to or the value of the Mortgaged Property; and (v) fees and expenses of professional consultants including preparation of environmental reports and engineering reports with respect to the condition of the Mortgaged Property.

(d) All such expenses, until paid, shall be added to the unpaid principal of the Obligations, shall bear interest at the rate set forth in the Note, and the payment thereof, together with such interest, shall be secured by the lien of this Mortgage and the other Security Instruments.

Section 6. Assignment of Leases and Rents.

6.1. Contemporaneously herewith Mortgagor has executed and delivered a Collateral Assignment of Leases and Rents in favor of Mortgagee (the "Collateral Assignment").

6.2. Mortgagee shall be and hereby is authorized and empowered, for and in the name or names and on behalf of Mortgagor and/or Mortgagee, and for the purposes hereinafter set forth, shall be and hereby is made, constituted and appointed the true and lawful attorney-in-fact of Mortgagor (with full power of substitution and revocation) and in the name, place and stead of Mortgagor, and in the sole and uncontrolled discretion of said attorney, to cause the assignment to Mortgagee of any Lease which has not been so assigned after request therefor by Mortgagee. The foregoing appointment, being coupled with an interest, is irrevocable until the Obligations are paid and otherwise satisfied in full.

6.3. Upon Mortgagor's default in any of the covenants or conditions of this Mortgage, the Mortgagee (or any other person or entity designated by Mortgagee) shall be entitled, without notice to the Mortgagor and without regard to the adequacy of any security for the Obligations and without regard to the solvency of the Mortgagor, to enter into and take possession

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of all or any part of the Premises and to use, operate, manage and control the same and conduct the business thereof and collect the rents and profits therefrom as Mortgagee shall deem best, all as more particularly set forth in the Collateral Assignment. The Collateral Assignment is incorporated herein by reference and made a part hereof as if fully set forth herein, including but not limited to the power of attorney granted Mortgagee by Mortgagor set forth therein, which said power is irrevocable, being coupled with an interest.

Section 7. Security Agreement.

7.1. This Mortgage constitutes a security agreement under the Code and Mortgagor hereby grants to Mortgagee a security interest in all that property (and the proceeds thereof) included in the Mortgaged Property which might be deemed "personal property". Mortgagor shall not change its principal place of business without giving Mortgagee at least thirty (30) days prior written notice thereof, which notice shall be accompanied by new financing statements executed by Mortgagor in the same form as the financing statements delivered to Mortgagee on the date hereof except for the change of address. Mortgagor covenants to retain all of the Mortgaged Property within the county in which the Premises is located. Upon the occurrence of any Event of Default under the Loan Documents, Mortgagee shall have, in addition to any other rights and remedies under the Loan Documents, all of the rights and remedies granted to a secured party under the Code with respect to all personal property. Mortgagor agrees that the personal property is not and will not be used or acquired for personal, family or household purposes. Mortgagee may require Mortgagor to assemble the personal property or any portion thereof, at a place designated by Mortgagee and reasonably convenient to both parties, and promptly to deliver such personal property to Mortgagee, or an agent or representative designated by it.

7.2. Mortgagor warrants and covenants that:

(a) Except for the security interest granted hereby, Mortgagor is, or upon acquiring rights in any of the Mortgaged Property will be, the owner of the Mortgaged Property free from any other lien, security interest or encumbrance other than the Permitted Encumbrances; and Mortgagor will defend the security interest of the Mortgagee in the Mortgaged Property against claims and demands of all persons at any time claiming the same or any interest therein subject as aforesaid; and

(b) Except for any financing statement filed with respect to any of the Permitted Encumbrances, no financing statement covering any Mortgaged Property is on file in any public office, and at the request of Mortgagee, Mortgagor will join with Mortgagee in executing one or more financing statements pursuant to the Code in form satisfactory to Mortgagee and will pay the cost of filing or recording the same in all public offices wherever filing or recording is deemed by Mortgagee to be necessary or desirable.

7.3. Mortgagor hereby authorizes Mortgagee to file financing and continuation statements with respect to the Mortgaged Property without the signature of Mortgagor whenever lawful.

7.4. The Personal Property shall be kept at the Premises, and until installed will be suitably and safely stored thereon.

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7.5. Mortgagor shall not remove or permit to be removed from the Premises any of the Personal Property without the prior written consent of Mortgagee unless the same is immediately replaced with unencumbered fixtures, chattels or articles of personal property, as the case may be, of a quality, value and utility equal or superior to those which they replace. All such replacements, renewals and additions shall become and be immediately subject to the security interest of this Mortgage and be covered thereby.

7.6. Mortgagor, from time to time, on request of Mortgagee, shall deliver to Mortgagee an inventory of the Personal Property in reasonable detail, including an itemization of all items leased to Mortgagor or subject to conditional bill of sale, security agreement or other title retention agreement.

Section 8. Events of Default.

The occurrence of any one or more of the following events shall constitute an Event of Default:

8.1. Nonpayment of any installment of principal and/or interest due under the Note when it shall become due and payable (no prior demand therefore being necessary) and such nonpayment shall have continued for more than ten (10) days.

8.2. Nonpayment of any other sum payable under this Mortgage, the Note, any of the other Security Instruments or any of the Other Documents and, unless a different grace or notice period is elsewhere specified, such nonpayment shall have continued for more than ten (10) days after notice thereof from Mortgagee to Mortgagor.

8.3. Nonperformance or nonobservance of any of the other covenants, agreements, or conditions of this Mortgage, any of the other Security Instruments or any of the Other Documents, and, unless a different grace or notice period is elsewhere specified, such nonperformance or nonobservance shall have continued for more than thirty (30) days after notice thereof from Mortgagee to Mortgagor. The foregoing shall not be deemed to provide a grace or notice period for nonperformance or nonobservance of any covenant, agreement or condition which is specifically listed as an Event of Default in any other subsection of this Section 8.

8.4. The occurrence of an "Event of Default" under the Senior Loan Agreement, if any.

8.5. Title to the Mortgaged Property is not satisfactory to the Mortgagee by reason of any lien, charge, encumbrance, title condition or exception (other than Permitted Encumbrances) and such condition continues for more than thirty (30) days after notice thereof from Mortgagee to Mortgagor.

8.6. Any survey, report or examination discloses that the Improvements or any portion thereof encroach upon or project over a street or upon or over adjoining property, and such condition was not disclosed prior to the granting of this Mortgage and shall have continued for more than thirty (30) days after notice thereof from Mortgagee to Mortgagor.

8.7. The Mortgaged Property is materially damaged or destroyed by fire or

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otherwise.

8.8. If any notice of responsibility, notice of violation, notice letter or other similar notice or claim is issued or filed by the EPA or any Governmental Authority against Mortgagor or the Mortgaged Property under any of the Hazardous Waste Laws and within sixty (60) days after the issuance or filing thereof (a) such notice or claim has not been withdrawn, or (b) the condition referenced therein is not cured, or (c) a consent agreement reasonably satisfactory to Mortgagee has not been entered into between Mortgagor and the EPA or the Governmental Authority in question.

Section 9. Mortgagee's Rights Upon Default.

Upon the occurrence of any Event of Default hereunder the entire unpaid balance of the principal, the accrued interest and all other sums secured by this Mortgage shall become immediately due and payable, at the option of Mortgagee, without notice or demand (unless specifically required by applicable law); provided, however, that the liability of the partners in Mortgagor shall be limited under this Mortgage to the same extent as is provided in the Note. When the entire indebtedness shall become due and payable, either because of maturity or because of the occurrence of any Event of Default, or otherwise, then forthwith Mortgagee shall have, and may exercise any one or more of the following rights, unless specifically prohibited by applicable law in the jurisdiction where the Mortgaged Property is located, which rights shall be cumulative and not exclusive and in addition to any other rights granted to Mortgagee under this Mortgage:

9.1. Remedies at Law or Equity. Mortgagee shall have the right forthwith, at its election, to exercise any and all rights and remedies available to it at law or in equity, including but not limited to the Statutory Power of Sale.

9.2. Foreclosure Action. Mortgagee may exercise its right to invoke the Statutory Power of Sale, institute an action of mortgage foreclosure against the Mortgaged Property, or take such other action, at law or in equity, for the enforcement of this Mortgage and realization on the mortgage security or any other security herein or elsewhere provided for, as the law may allow, and may proceed therein to final judgment and execution for the entire unpaid balance of the principal debt, with interest at the rate stipulated in the Note to the date of such judgment, and thereafter at the same rate (but if not permissible, then at the highest judgment rate permitted by law), together with all other sums due by Mortgagor in accordance with the provisions of the Note and this Mortgage, and all sums which may have been advanced by Mortgagee for taxes, water or sewer rents, charges or claims, insurance or repairs to the Mortgaged Property, all costs of suit, and a reasonable attorneys' fee for collection.

9.3. Mortgagee's Right to Operate. Upon the occurrence of any Event of Default, the Mortgagee (or any other person or entity designated by Mortgagee) shall be entitled, without notice to the Mortgagor and without regard to the adequacy of any security for the Obligations and without regard to the solvency of the Mortgagor, to enter into and take possession of all or any part of the Premises and to use, operate, manage and control the same and conduct the business thereof and collect the rents and profits therefrom as Mortgagee shall deem best. In order to facilitate the exercise of the foregoing rights by Mortgagee, Mortgagor hereby appoints and names Mortgagee its true and lawful attorney-in-fact (with full power of substitution and revocation) in the name, place and stead of Mortgagor to do any and all acts Mortgagee in its sole and uncontrolled discretion

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deems necessary or appropriate to fully exercise said rights, including but not limited to the following:

- (a) manage and operate the Mortgaged Property or any part thereof;
- (b) lease any part or parts of the Mortgaged Property for such periods of time, and upon such terms and conditions as Mortgagee may, in its discretion, deem proper;
- (c) enforce any of the Leases;
- (d) demand, collect, sue for, attach, levy, recover, receive, compromise and adjust, and make, execute and deliver receipts and releases for all Rents that may then or may thereafter become due, owing or payable with respect to the Mortgaged Property, or any part thereof, from any present or future lessees, tenants, subtenants or occupants thereof;
- (e) institute, prosecute to completion or compromise and settle all summary proceedings and actions for rent or for removing any and all lessees, tenants, subtenants or occupants of the Mortgaged Property or any part or parts thereof;
- (f) enforce, enjoin or restrain the violation of any of the terms, provisions and conditions of any of the Leases;
- (g) make such repairs and alterations to the Mortgaged Property as Mortgagee (or such other designee of Mortgagee) may, in their discretion, deem proper;
- (h) pay from and out of the Rents collected or from or out of any other funds except Tenant Security Deposits under the Leases, insurance premiums and any taxes, assessments, water rates, sewer rates, or other governmental charges levied, assessed or imposed against the Mortgaged Property, or any portion thereof, and also any and all other charges, costs and expenses which it may deem necessary or advisable for Mortgagee to pay in the management or operation of the Mortgaged Property, including (without limiting the generality of any rights, powers, privileges and authority hereinbefore or hereinafter conferred) the costs of such repairs and alterations, commissions for renting the Mortgaged Property, or any portions thereof, and legal expenses in enforcing claims, preparing papers or for any other services that may be required;
- (i) generally, do, execute and perform any other act, deed, matter or thing whatsoever that ought to be done, executed and performed in and about or with respect to the Mortgaged Property as fully as Mortgagor might do; and
- (j) may require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect rents, the fair and reasonable rental value for the use and occupation of such part of the Mortgaged Property as may be occupied by Mortgagor, or may require Mortgagor to vacate and surrender possession of the Mortgaged Property to Mortgagee or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise.

The foregoing appointment being coupled with an interest is irrevocable.

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9.4. Personal Property. Upon any Event of Default in the performance of the covenants contained herein, Mortgagee, if and to the extent permitted by the Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real estate. The parties agree that, in the event Mortgagee elects to proceed with respect to personal property separately from the real property, the requirement of the Code as to reasonable notice of any proposed sale or disposition of the personal property shall be met if such notice is mailed to Mortgagor at least ten (10) days prior to the time of such sale or disposition.

9.5. Right to Cure. Upon any Event of Default in the performance of the covenants contained herein, Mortgagee shall have the right, but shall not be obligated, to enter the Mortgaged Property, if necessary, and cure any default in regard to the Mortgaged Property, and all costs thereof shall be secured by this Mortgage and shall be paid, together with interest thereon at the rate specified in the Note, by Mortgagor to the Mortgagee upon demand therefor. The performance of any such covenant by Mortgagee, however, shall not be deemed a waiver of default.

9.6. Remedies Cumulative.

(a) 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, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

(b) Mortgagee may release, regardless of consideration, any part of the security held for the indebtedness secured by this Mortgage without, as to the remainder of the security, in any way impairing or affecting the lien of this Mortgage or its priority over any subordinate lien.

Section 10. Miscellaneous.

10.1. Any notice, demand, request, instruction, document or other communication to be given under or in connection with this Mortgage shall be in writing and hand-delivered, receipt requested or sent by registered or certified mail, postage prepaid, return receipt requested, or sent by Federal Express or other similar courier service, addressed as follows:

If to Mortgagor: VFC Properties 10 LLC
6400 Imperial Drive
Waco, TX 76712
Attention: Kathy S. McNair

If to Mortgagee: VFC Partners 10 LLC
6400 Imperial Drive
Waco, TX 76712
Attention: Kathy S. McNair

Any party may change the address to which notices are to be sent to it by giving written notice of

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such change of address to the other party in the manner herein provided for giving notice. Any such notice, demand, request, or other communication shall be deemed given when mailed as aforesaid.

10.2. The captions in this Mortgage are for convenience and reference only and do not define, limit or describe the scope of the provisions hereof.

10.3. The provisions of this Mortgage may be modified or terminated only in a writing signed by Mortgagor and Mortgagee.

10.4. Mortgagee shall not be deemed to have waived or amended any of its rights or remedies under any of the Loan Documents unless such waiver or amendment be in writing and signed by it. No delay or omission on the part of Mortgagee in exercising any such right or remedy shall operate as a waiver of such right or remedy or any other right or remedy. A waiver on any one occasion shall not be construed as a bar to or a waiver of the same right or remedy on any future occasion. Without limiting the generality of the foregoing, the acceptance by Mortgagee of any sum after the occurrence of any Event of Default shall not constitute a waiver of the right to require prompt performance of all of the covenants and conditions contained in the Loan Documents. The acceptance by Mortgagee of any sum less than the sum then due shall be deemed an acceptance on account only and shall not constitute a waiver of the obligation of Mortgagor to pay the entire sum then due, and Mortgagor's failure to pay said entire sum due shall be and continue to be an Event of Default notwithstanding such acceptance of such lesser amount on account, and Mortgagee shall be entitled at all times thereafter to exercise all rights and remedies conferred upon it following an Event of Default, notwithstanding the acceptance by Mortgagee thereafter of future sums on account.

10.5. The rights and remedies provided Mortgagee in the Loan Documents and any of them, or otherwise available by law, shall be cumulative and may be exercised concurrently or successively. Any one or more of such rights or remedies may be exercised by Mortgagee, at its option, without regard to the adequacy of its security.

10.6. Mortgagor and Mortgagee do not intend the benefits any one or more of the Loan Documents to inure to, or otherwise exist for, the benefit of any third party who has a contractual relationship with Mortgagor, who is a creditor of Mortgagor with respect to the Mortgaged Property, or any part thereof, or who otherwise succeeds to Mortgagor's interest or rights, and none of the Loan Documents shall be construed to make or render Mortgagee liable to any materialman, supplier, contractor, subcontractor, successor in title to the Mortgaged Property, or any part thereof, or any Lessee, or for debts or claims accruing to any such persons against Mortgagor. Notwithstanding anything contained in any of the Loan Documents, or any conduct or course of conduct by Mortgagor or Mortgagee or both, whether before or after signing this Mortgage, none of the Loan Documents shall be construed as creating any right, claim or cause of action against Mortgagee, or any of its officers, directors, agents or employees, in favor of any materialman, supplier, contractor, subcontractor, successor in title to the Mortgaged Property, or any part thereof, or any Lessee or to any other person, corporation or other entity, other than Mortgagor.

10.7. Mortgagor acknowledges that Mortgagor and Mortgagee and their respective counsel have reviewed and revised the Loan Documents and agrees that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of any of the Loan Documents.

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10.8. Mortgagee may assign, negotiate, or pledge all or any portion of its rights under the Loan Documents or any of them, and, in case of such assignment, Mortgagor shall accord full recognition thereto. Without limiting the generality of the foregoing, Mortgagee shall have the right to sell or otherwise grant participations in the Loan to one or more of the participating financial institutions and to disclose all information in its possession with respect to Mortgagor and the Mortgaged Property to such institutions; Mortgagor shall cooperate with Mortgagee, if requested by Mortgagee, with respect to any of Mortgagee's efforts to obtain such participants.

10.9. Every word herein purporting to the neuter gender only shall extend to and include males and females and every word herein importing the singular number only shall be construed to extend to and include the plural number also.

10.10. In the event any term or provision of this Mortgage or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Mortgage or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall be valid and enforceable to the fullest extent permitted by law.

10.11. THIS MORTGAGE, THE NOTE AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE APPLICABLE LAWS OF THE STATE OF DELAWARE EXCEPT TO THE EXTENT (A) OF PROCEDURAL AND SUBTANTIVE MATTERS RELATING ONLY TO THE CREATION, PERFECTION AND FORECLOSURE OF LIENS, AND ENFORCEMENT OF RIGHTS AND REMEDIES AGAINST THE MORTGAGED PROPERTY, WHICH MATTERS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS, AND (B) THAT THE LAWS OF LAWS OF THE UNITED STATES OF AMERICA AND ANY RULES, REGULATIONS, OR ORDERS ISSUED OR PROMULGATED THEREUNDER, APPLICABLE TO THE AFFAIRS AND TRANSACTIONS ENTERED INTO BY MORTGAGEE, OTHERWISE PRE-EMPT ILLINOIS OR DELAWARE LAW, IN WHICH EVENT SUCH FEDERAL LAW SHALL CONTROL.

10.12. All Exhibits referred to in this Mortgage are by such references fully incorporated herein.

10.13. This Mortgage shall inure to the benefit of and be binding on the successors and assigns of Mortgagee and the heirs, legal representatives, successors and assigns of Mortgagor; provided however the foregoing shall not be deemed to allow any assignment by Mortgagor in violation of the terms hereof.

10.14. Mortgagee, and Mortgagor by acceptance of this Mortgage, expressly acknowledge and agree that the Loan involves a sophisticated commercial real estate finance transaction and that disputes arising in connection with the Loan would be most fairly resolved by a judge applying applicable federal and state laws, rather than by arbitration rules or jury trial. TO THE FULLEST EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY WAIVES, FOR MORTGAGOR AND MORTGAGOR'S HEIRS, LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, AND BY ACCEPTANCE OF THIS MORTGAGE, MORTGAGEE HEREBY WAIVES, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, ANY RIGHT TO A TRIAL BY

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JURY IN RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS MORTGAGE, THE NOTE OR ANY OF THE OTHER LOAN DOCUMENTS. Mortgagor hereby (a) certifies that no employee, attorney or other agent or representative of Mortgagee has represented, expressly or otherwise, that Mortgagee, in the event of litigation, would not seek to enforce the foregoing waiver, and (b) acknowledges that Mortgagee has been induced to make the Loan, by, among other things, the waiver, acknowledgements and certification contained in this subsection.

IN WITNESS WHEREOF, Mortgagor has executed or caused this Mortgage to be executed under seal on November 30, 2012.

VFC Properties 10 LLC, A Delaware limited liability company

BY: 

NAME: Deborah D. Butler

TITLE: Vice President

(CORPORATE SEAL)

(Use Black Ink)

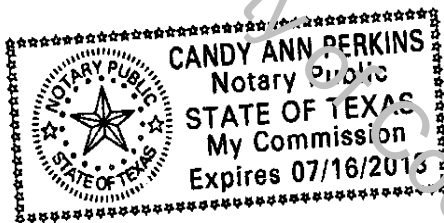
Exhibit A - Description of Premises

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STATE OF TEXAS §
 §
COUNTY OF MCLENNAN §

On the 30 day of November, 2012, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Deborah D. Butler who acknowledged himself/herself to be the Vice President of VFC Properties 10 LLC, a limited liability company, and that he/she, as such officer, being authorized to do so, executed the foregoing Mortgage and Security Agreement for the purposes therein contained on behalf of such liability company by signing the name of the corporation, by himself/herself as such officer, and desired that this Mortgage and Security Agreement be recorded as such.

WITNESS my hand and seal the day and year aforesaid.



Candy A. Perkins
Notary Public
My Commission Expires: 7-16-13

The Address of Mortgagee is:

VFC Properties 10 LLC
6400 Imperial Drive
Waco, TX 76712
Attention: Kathy S. McNair

Deborah D. Butler
On Behalf of Mortgagee

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EXHIBIT A

Lot 17 Block 1 in Cronkite, Clarkson and Boyd's Subdivision of the South 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 24, Township 38 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Commonly known as 7037-7039 S. EAST END, Chicago, IL 60649

Property Index No. 20-24-325-012-0000 & 20-24-325-013-0000

Property of Cook County Clerk's Office