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LEASE AGREEMENT

Dated as of December 16, 1998

by and between

THE LESSOR IDENTIFIED IN SCHEDULE 1 HERETO, as Lessor

and

THE HUNTINGTON NATIONAL BANK,  
a national banking association, as Lessee

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EXHIBIT "A" TO LEASE AGREEMENT

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LEASE AGREEMENT, dated as of December 16th, 1998, by and between THE LESSOR IDENTIFIED IN SCHEDULE 1 HERETO, as Lessor, and THE HUNTINGTON NATIONAL BANK, a national banking association, as Lessee.

In consideration of the mutual agreements herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

## **ARTICLE I. DEFINITIONS**

The capitalized terms used and not otherwise defined herein shall have the meanings assigned thereto in **Appendix A** hereto for all purposes hereof.

## **ARTICLE II. LEASE OF PROPERTY**

On the Lease Term Commencement Date, the Lessor shall demise and lease, and hereby as of the Lease Term Commencement Date does demise and lease, Lessor's Interest to the Lessee, and the Lessee shall rent and lease, and hereby as of the Lease Term Commencement Date, does rent and lease, Lessor's Interest from the Lessor, for the Basic Term and, subject to the exercise by the Lessee of its renewal options as provided in **Article IV** hereof, for the Renewal Terms. The Lessee may from time to time own or hold under lease from Persons other than the Lessor Retained Property located on or about the Property that is not subject to this Lease. The Lessor shall from time to time, upon the reasonable request of the Lessee, promptly acknowledge in writing and, if requested, in recordable form to the Lessee or other Persons that the Lessor does not own or have any other right or interest in or to such Retained Property.

## **ARTICLE III. RENT**

**SECTION 3.1. Basic Rent.** The Lessee shall pay to the Lessor (or to the Lender, if so directed by the Lessor) Basic Rent in consecutive monthly installments, each in the amount specified in Schedule 1 hereto, payable in advance on each Rent Payment Date during the Basic Term. Basic Rent for the period from the Lease Term Commencement Date to the first Rent Payment Date shall be prorated and payable in advance on the Lease Term Commencement Date.

**SECTION 3.2. Supplemental Rent.** The Lessee shall pay to the Lessor, or to whoever shall be entitled thereto as expressly provided herein or in any other Operative Document, any and all Supplemental Rent when the same shall become due and payable and if

there is no stated due date for the payment of such Supplemental Rent under the Operative Documents, in no event later than ten (10) days after receipt by the Lessee of a written demand for such amount from the Lessor (or from such other party entitled to such Supplemental Rent) and in the event of any failure on the part of the Lessee to pay any such Supplemental Rent, the Lessor shall have all rights, powers and remedies provided for herein or by law or in equity or otherwise in the case of nonpayment of Basic Rent. All Supplemental Rent to be paid pursuant to this **Section 3.2** shall be payable in the type of funds and in the manner set forth in **Section 3.3**.

**SECTION 3.3. Method of Payment.** Basic Rent and Supplemental Rent shall be paid to the Lessor (or, to the Lender, if so directed by Lessor, in the case of Basic Rent, or, in the case of Supplemental Rent, to the Person or Persons entitled thereto) at such place as the Lessor (or such other Person) shall specify in writing to the Lessee from time to time (but in any event not less than ten (10) Business Days prior to the due date therefor); provided, however, that Lessee shall not be required to divide any installment of Basic Rent and make payment of same to more than one payee. Each payment of Rent shall be made by the Lessee in lawful currency of the United States of America, at the place of payment on or before the scheduled date when such payment shall be due, unless such scheduled date shall not be a Business Day, in which case such payment shall be made on the next succeeding Business Day and no interest shall accrue on the amount of such payment from and after such scheduled date to the time of such payment on such next succeeding Business Day. If required by the Lender at any time that the Lessee has been instructed by the Lessor to pay Basic Rent to the Lender, Basic Rent shall be paid by wire transfer of immediately available funds to such account at such bank as shall be designated in writing by Lender from time to time.

**SECTION 3.4. Late Payment.** If any Rent shall not be paid when due, the Lessee shall pay as Supplemental Rent, interest (to the maximum extent permitted by law) on such overdue amount from and including the due date thereof to but excluding the Business Day of payment thereof (unless such payment shall be made after 2:00 p.m., New York City time, on such date of payment, in which case such date of payment shall be included) at the Overdue Rate. If any Rent shall be paid on the date when due, but after 2:00 p.m., local time at the place of payment, interest shall be payable as aforesaid for one day at the Overdue Rate.

**SECTION 3.5. Net Lease; No Setoff; Etc.** This Lease is a net lease and, notwithstanding any other provision of this Lease, it is intended that Basic Rent and Supplemental Rent and any other amounts payable hereunder shall be paid without counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and Lessee's obligation to pay all such amounts, throughout the Basic Term and all applicable Renewal Terms, is absolute and unconditional. The obligations and liabilities of the Lessee hereunder shall in no way be released, discharged or otherwise affected for any reason, including, without limitation: (a) any defect in the condition, merchantability, design, quality or fitness for use of the Property or any part thereof, or the failure of the Property to comply with all Applicable Laws and Regulations, including any inability to occupy or use the Property by reason

of such non-compliance; (b) any damage to, removal, abandonment, salvage, loss, contamination of or Release at or from, scrapping or destruction of or condemnation or taking of the Property or any part thereof other than as expressly provided in **Article XIII** hereof; (c) any restriction, prevention or curtailment of or interference with any use of the Property or any part thereof including eviction (and including any violations of **Section 21.2** hereof by the Lessor) other than as expressly provided in **Article XIII** hereof; (d) any defect in title to or rights to the Property or any Lien on such title or rights or on the Property; (e) any change, waiver, extension, indulgence or other action or omission or breach in respect of any obligation or liability of, by the Lessor; (f) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation, receivership, conservatorship or other like proceedings relating to the Lessee, the Lessor or any other Person, or any action taken with respect to this Lease by any trustee or receiver of the Lessee, the Lessor or any other Person, or by any court, in any such proceeding; (g) any claim that the Lessee has or might have against any Person, including without limitation the Lessor or any vendor, manufacturer, contractor of or for the Property or any Improvement; (h) any failure on the part of the Lessor to perform or comply with any of the terms of this Lease, any other Operative Document or of any other agreement whether or not related to the Overall Transaction; (i) any invalidity or unenforceability or disaffirmance of this Lease against or by the Lessee or any provision hereof or any of the other Operative Documents or any provision of any thereof; (j) the impossibility of performance by Lessor, the Lessee or both; (k) any action by any court, administrative agency or other Governmental Authority; (l) any environmental condition affecting the Property; or (m) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not the Lessee shall have notice or knowledge of any of the foregoing. Other than as expressly provided in **Article XIII** hereof, this Lease shall be noncancellable by the Lessee for any reason whatsoever and the Lessee, to the extent permitted by Applicable Laws and Regulations, waives all rights now or hereafter conferred by statute or otherwise to quit, terminate or surrender this Lease, or to any diminution, abatement or reduction of Rent payable by the Lessee hereunder. If for any reason whatsoever this Lease shall be terminated by operation of law or otherwise, other than as expressly provided in **Article XIII** hereof, the Lessee shall nonetheless pay (in accordance with **Sections 3.1** and **3.2** hereof) an amount equal to each Rent payment at the time and in the manner that such payment would have become due and payable under the terms of this Lease if it had not been terminated, and in such case, so long as such payments are made and no Lease Event of Default shall have occurred and be continuing the Lessor will deem this Lease to have remained in effect. The Lessee assumes the sole responsibility for the condition, use, operation, maintenance and management of the Property, and the Lessor shall have no responsibility in respect thereof and shall have no liability for damage to the Property, to the Lessee or any subtenant of the Lessee on any account or for any reason whatsoever other than by reason of the Lessor's willful misconduct or gross negligence (other than willful misconduct or gross negligence imputed to the Lessor as a matter of law on account of Lessor's ownership of the Property) or breach of any of its obligations under any Operative Document. Nothing contained in this **Section 3.5** shall be deemed a waiver of any right the Lessee may have in any legal proceeding to enforce the Lease or to raise any defense the Lessee may have hereunder. The Lessee agrees that it shall remain obligated under this Lease in

accordance with its provisions and that, except as otherwise expressly provided in Article XIII hereof, it shall not take any action to terminate, rescind or avoid this Lease, notwithstanding (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding-up or other proceeding affecting the Lessor, (ii) the exercise of any remedy, including foreclosure under any Mortgage, or (iii) any action with respect to this Lease (including the disaffirmance hereof) which may be taken by the Lessor under the Bankruptcy Code or by any trustee, receiver or liquidator of the Lessor or by any court under the Bankruptcy Code or otherwise.

The Lessee waives all rights which are not expressly stated in this Lease but which may now or hereafter otherwise be conferred by Applicable Laws and Regulations (i) to quit, terminate or surrender this Lease or any of the Property, (ii) to any setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense of or to Basic Rent, Supplemental Rent or any other sums payable under this Lease, except as otherwise expressly provided in this Lease, and (iii) for any statutory lien or offset right against Lessor or its property.

**SECTION 3.6. Rent After Failure to Vacate Property.** In the event that the Lessee remains in possession of the Property after the expiration or earlier termination of this Lease and without the Lessor's consent (unless the Lessor's Interest has been acquired by the Lessee and the Lessee has fully paid for the same in accordance with the provisions hereof), the Lessee shall be deemed to be occupying the Property as a tenant at sufferance. Any such occupancy by the Lessee shall be subject to all of the terms, covenants and conditions of this Lease insofar as the same are applicable to such a tenancy, except that (a) the Lessee shall pay rent to the Lessor, payable in arrears on the last Business Day of each month, for each day (or any portion thereof) that such occupancy shall continue, in an amount per diem equal to the greater of (i) 125% of the average daily Basic Rent payable during the twelve (12) months ending on the last day of the Term or (ii) Fair Market Rental Value, and (b) the Lessee shall not have the right to make any Alterations unless required by Applicable Laws or Regulations. Such rent shall be payable in the manner provided in Section 3.3 for payments of Basic Rent. The provisions of this Section shall not be deemed to grant to the Lessee the right to, or otherwise be deemed to, extend the Lease Term beyond the expiration or earlier termination of this Lease. Neither the payment by the Lessee to the Lessor nor the acceptance by the Lessor from the Lessee of any amount in payment for the Lessee's occupancy of the Property beyond the expiration or earlier termination of this Lease shall (i) be deemed to convert the Lessee's occupancy into any interest other than a tenancy at sufferance, (ii) revoke or otherwise impair the validity of any notice to quit or ejectment notice or proceeding that the Lessor may have served or commenced, or (iii) prohibit or otherwise impair the Lessor's right to immediately obtain an order of ejectment against the Lessee. The Lessee irrevocably waives the benefit of Applicable Laws or Regulations that may grant to the Lessee any rights inconsistent with the provisions of this Section. The provisions of this Section do not waive Lessor's right of re-entry or right to regain possession by actions at law or in equity or any other rights hereunder, and any receipt of payment by Lessor shall not be deemed a

consent by Lessor to the Lessee's remaining in possession or be construed as creating or renewing any lease or right of tenancy between Lessor and Lessor.

**ARTICLE IV.**  
**RENEWAL OPTIONS**

**SECTION 4.1. Renewal Options.** The Lessor hereby grants to the Lessee, and the Lessee shall have, the right and option to renew this Lease in the manner hereinafter set forth. Upon the expiration of the Basic Term and subject to the terms and conditions contained in this **Section 4.1**, the Lessee will have the right and option to renew this Lease for an initial period of ten (10) years (the "**Initial Renewal Term**") and up to four (4) consecutive periods of five years thereafter (each such renewal term a "**Renewal Term**" and, together with the Initial Renewal Term, the "**Renewal Terms**").

Lessee shall have the right to renew this Lease as set forth above, provided:

(a) That at the respective time set forth hereinbelow for the exercise of the right and option to renew the Lease Term, no Monetary Default or Lease Event of Default shall have occurred and be continuing;

(b) That any Renewal Term shall be upon the same terms, covenants and conditions contained in this Lease except that (i) Stipulated Loss Value for any Renewal Term shall be zero and (ii) monthly Basic Rent for (A) the Initial Renewal Term shall be equal to 100% of the average monthly Basic Rent payable during the Basic Term, (B) the Renewal Term after the Initial Renewal Term shall be equal to 110% of the monthly Basic Rent during the Initial Renewal Term and (C) each Renewal Term thereafter shall be equal to 105% of the monthly Basic Rent payable during the immediately preceding Renewal Term.

(c) That Lessee shall exercise its right to any Renewal Term, if at all, by notifying Lessor in writing on or before the date that is six (6) months prior to the expiration of the Basic Term or, as may then be applicable, the applicable Renewal Term, of its election to renew this Lease for the succeeding Renewal Term.

**ARTICLE V.**  
**[INTENTIONALLY OMITTED]**

**ARTICLE VI.**  
**CONDITION OF PROPERTY**

**SECTION 6.1. Disclaimers.** The Property is demised and let by the Lessor "AS IS" in its present condition, subject to (a) the rights of any parties in possession thereof, (b) the state of the title thereto existing at the time the Lessor acquired title to its interest in the Property, (c) any state of facts which an accurate survey or physical inspection might show (including the survey delivered on the Lease Term Commencement Date), (d) all Applicable Laws and Regulations and (e) any violations of Applicable Laws and Regulations which may exist at the commencement of the Lease Term. The Lessee has examined the Property and (insofar as the Lessee is concerned) has found the same to be satisfactory. **THE LESSOR HAS NOT MADE AND SHALL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND SHALL NOT BE DEEMED TO HAVE ANY LIABILITY WHATSOEVER AS TO THE VALUE, HABITABILITY, CONDITION, DESIGN, OPERATION, OR FITNESS FOR USE OF THE PROPERTY (OR ANY PART THEREOF), OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY (OR ANY PART THEREOF) AND THE LESSOR SHALL NOT BE LIABLE FOR ANY LATENT, HIDDEN, OR PATENT DEFECT THEREIN OR THE FAILURE OF THE PROPERTY, OR ANY PART THEREOF, TO COMPLY WITH ANY APPLICABLE LAWS AND REGULATIONS.** It is agreed that the Lessee has been afforded full opportunity to inspect the Property, is satisfied with the results of its inspections of the Property and is entering into this Lease solely on the basis of the results of its own inspections and all risks incident to the matters discussed in the preceding sentence, as between the Lessor and the Lessee, are to be borne by the Lessee. The Lessee acknowledges that the Property has been subject to a sale-leaseback transaction between the Lessee (or an Affiliate of Lessee) and the Lessor and, therefore, the Lessee is fully familiar with the condition of the Property and is not looking to any other Person as to any warranty with respect thereto. The provisions of this Article VI have been negotiated, and the foregoing provisions are intended to be a complete exclusion and negation of any representations or warranties by the Lessor, express or implied, with respect to the Property, that may arise pursuant to any law now or hereafter in effect, or otherwise.

**ARTICLE VII.**  
**LIENS**

The Lessee shall not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to the Property, any Basic Rent or Supplemental Rent, title thereto or any interest therein, except in all cases Permitted Liens. The Lessee shall promptly, but not later than thirty (30) days after the filing thereof, at its own expense, take such action as may be necessary duly to discharge or eliminate or bond in a manner reasonably satisfactory to the Lessor and the Lender any such Lien (other than Permitted Liens) if the same shall arise at any time.

Nothing contained in this Lease shall be construed as constituting the consent or request of the Lessor, express or implied, to or for the performance by any contractor, laborer, materialman, or vendor of any labor or services or for the furnishing of any materials for any construction, alteration, addition, repair or demolition of or to the Property or any part thereof, which would result in any liability of the Lessor for payment therefor. LESSOR SHALL HAVE THE RIGHT TO POST NOTICE(S) OF NON-RESPONSIBILITY ON THE PROPERTY REGARDING SUCH LABOR AND/OR MATERIALS. NOTICE IS HEREBY GIVEN THAT THE LESSOR WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE LESSEE, OR TO ANYONE HOLDING AN INTEREST IN THE PROPERTY OR ANY PART THEREOF THROUGH OR UNDER THE LESSEE, AND THAT NO MECHANIC'S OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE LESSOR IN AND TO THE PROPERTY.

**ARTICLE VIII.**  
**MAINTENANCE AND REPAIR; ALTERATIONS,**  
**MODIFICATIONS AND ADDITIONS**

**SECTION 8.1. Maintenance and Repair.** The Lessee, at its own expense, shall at all times, (a) maintain and operate the Property in a manner consistent with the standards of operation and maintenance of a first class property of the type described in **Schedule 1**, in each case, subject to ordinary wear and tear; (b) maintain the Property in accordance with all Applicable Laws and Regulations, whether or not such maintenance requires structural modifications; (c) comply with the standards imposed by any insurance policies required to be maintained hereunder which are in effect at any time with respect to the Property or any part thereof; and (d) make all necessary or appropriate repairs, replacements and renewals of the Property which may be required to keep the Property in the condition required by the preceding clause (a), whether interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen. So long as all of the obligations contained in the foregoing clauses (a) through (d) have been satisfied and so long as no Monetary Default or Lease Event of Default shall have occurred and be continuing, the Lessee shall be entitled to sell any fixtures and equipment constituting a portion of the Property that may have been replaced in connection with the performance of the foregoing maintenance and care obligations and to retain any proceeds thereof. The Lessee waives any right that it may now have or hereafter acquire (i) to require the Lessor to maintain, repair, replace, alter, remove or rebuild all or any part of the Property or (ii) to make repairs at the expense of the Lessor. All such repairs, restorations, refurbishments and replacements shall be constructed and installed in a good and workmanlike manner in compliance with Applicable Laws and Regulations. All materials and equipment used or installed in connection with such repairs, restorations and replacements shall be at least equal in quality and standard to those then being utilized in first class properties of the type described in **Schedule 1** in the metropolitan area in which the Property is located. In carrying out its obligations under this

**Section 8.1**, the Lessee shall not discriminate in any way in the maintenance of the Property as compared with other properties owned, managed or leased by the Lessee and shall operate the Property in a manner consistent with sound operating practices.

**SECTION 8.2. Alterations.** (a) Provided no Monetary Default or Lease Event of Default is continuing, the Lessee may, without the consent of the Lessor, at the Lessee's own cost and expense, make Alterations to the Property; provided, however, that the making of any such Alterations must be in compliance with the following requirements:

(i) The Lessee shall not make any Alterations in violation of the terms of any restriction, easement, condition or covenant or other matter affecting title to the Property or which would adversely affect the Lessor's Interest, would reduce the value other than to a de minimis extent, utility or remaining useful life of the Property or adversely affect the zoning or permitted use of the Property;

(ii) No such Alterations shall be undertaken unless Lessee shall procure and pay for, so far as the same may be required from time to time, all necessary permits and authorizations relating to such Alterations of all municipal and other Governmental Authorities having jurisdiction of the Property. The Lessor shall, at the Lessee's expense, join in the application for any such permit or authorization and execute and deliver any document in connection therewith, whenever such joinder is necessary or advisable, and Lessee shall pay all reasonable out of pocket costs of the Lessor in connection therewith (including, without limitation, reasonable attorneys' fees);

(iii) The making of such Alterations shall be completed in a good and workmanlike manner and in compliance with all Applicable Laws and Regulations then in effect and all applicable Insurance Requirements;

(iv) The cost of all Alterations shall be paid by the Lessee when due so that the Property shall at all times be free of Liens for labor and materials supplied or claimed to have been supplied to the Property, other than Permitted Liens; and

(v) No such Alteration shall be made which would cause the Property to become "limited use property" within the meaning of Revenue Procedure 76-30, 1976-2 C.B. 647.

(b) Subject to **Section 8.4** hereof, the Lessee shall make such Alterations to the Property as may be required from time to time to comply with all Applicable Laws and Regulations.

(c) Without limitation to the requirements of subsection (b) above, if at the time of any proposed Alteration the rating of the senior unsecured long-term indebtedness of the

Lessee is below Investment Grade and the proposed Alteration is reasonably expected to cost in excess of Fifty Thousand Dollars (\$50,000.00), (i) the Lessee shall provide a construction budget showing all "hard" and "soft" costs to be incurred in connection with such Alteration, plus a reasonable contingency (the "Alteration Budget"), together with evidence reasonably acceptable to the Lessor and the Lender supporting the total costs reflected in the Alterations Budget, which may include, among other things, one or more fixed price or guaranteed maximum price contracts, completion and labor and materials bonds or costs analyses by reputable architects and engineers; and (ii) the Lessee shall demonstrate to the reasonable satisfaction of the Lessor and the Lender the availability of liquid funds in an amount sufficient to complete such Alterations and pay all costs and expenses in connection therewith, in the form of:

(A) a segregated bank account at the Depository, containing an amount at least equal to the total costs (including contingency) shown in the Alterations Budget, which account shall be pledged to Lessor and Lender as security for the performance by Lessee of its obligation to complete and pay for such Alteration (it being agreed that the funds in any such account shall be available for application by Lessee to the costs of the Alteration as such costs are incurred, subject to receipt of customary evidence of completion of the work for which payment is being made, receipt of appropriate lien waivers, and the sufficiency of the funds remaining in the account to complete the Alterations); or

(B) an irrevocable letter of credit, in an amount at least equal to the total costs (including contingency) shown in the Alterations Budget, from a bank or other financial institution whose senior unsecured long-term indebtedness is rated at least "A" by S&P (or equivalent rating by Moody's), which letter of credit shall be in form and content reasonably acceptable to Lessor and Lender and which shall secure the performance by Lessee of its obligation to complete and pay for such Alteration (it being agreed that the amount of such letter of credit may be reduced as costs of the Alteration are paid, subject to receipt of customary evidence of completion of the work for which payment has been made, receipt of appropriate lien waivers, and the sufficiency of the remaining balance of the letter of credit to complete the Alterations); or

(C) any combination of the facilities described in clause (A) or (B) above.

**SECTION 8.3. Title to Alterations.** Title to all Non-Severable Alterations shall without further act vest in the Lessor and shall be deemed to constitute a part of the Property and be subject to this Lease. Title to Severable Alterations shall vest in the Lessee and shall not be subject to this Lease.

The Lessee shall, at the Lessor's request, execute and deliver any deeds, bills of sale or assignments necessary to evidence the vesting of title in and to such Alterations to the Lessor.

All Severable Alterations to which the Lessee shall have title, so long as removal thereof shall not result in the violation of any Applicable Laws and Regulations or the violation of the standard of maintenance and care of the Property under **Section 8.1**, may be removed at any time by the Lessee. Any such Severable Alterations shall be removed by the Lessee at its expense if the Lessor shall so request prior to the return of the Property to the Lessor in accordance with the provisions of this Lease, other than upon the termination of this Lease pursuant to **Article XIII** or **XIX** hereof or otherwise which results in a purchase of the Lessor's Interest by the Lessee, and the Lessee shall, at its expense repair any damage to the Property caused by the removal of such Severable Alterations.

**SECTION 8.4. Permitted Contests.** If, to the extent and for so long as (a) a test, challenge, appeal, contest or proceeding for review of any Applicable Laws and Regulations relating to the operation or maintenance of the Property shall be prosecuted diligently and in good faith by the Lessee or (b) compliance with such Applicable Laws and Regulations shall have been excused or exempted by a valid nonconforming use permit, waiver, extension or forbearance, the Lessee shall not be required to comply with such Applicable Laws and Regulations but only if and so long as such test, challenge, appeal, contest, proceeding or noncompliance shall not involve (i) an imminent risk of foreclosure, sale, forfeiture or loss of, or imposition of any Lien other than a Permitted Lien on, any part of the Property, (ii) a risk of any material civil liability, penalty or sanction being imposed on, or any risk of criminal liability, penalty or sanction being imposed on the Lessor or the Lender (unless, with respect to civil liability involving only monetary claims, such parties are reasonably satisfied that they are indemnified by the Lessee under the Operative Documents or there shall have been furnished indemnification reasonably satisfactory to each such party), (iii) risk of the nonpayment of Rent, (iv) risk of any material adjustment of, or material interference with, the use, possession or disposition of the Property, (v) a material risk of reduction of the value, utility or remaining useful life (except to an insignificant extent) of the Property or (vi) a contest that will extend beyond the Term of this Lease. The Lessee shall provide the Lessor with notice of any contest of the type described in clause (a) above in detail sufficient to enable the Lessor to ascertain whether such contest may have any effect of the type described in the above proviso.

Notwithstanding the foregoing, (i) the Lessee shall have no right to contest any such requirement of Applicable Laws or Regulations or any such governmental action while a Monetary Default or Lease Event of Default shall have occurred and be continuing and (ii) if at any time during any such contest (A) the rating of the senior unsecured long-term indebtedness of the Lessee falls below Investment Grade and (B) the reasonably expected cost of complying with the contested Applicable Laws and Regulations exceeds Fifty Thousand Dollars (\$50,000.00), Lessee shall, as a further condition to its right to maintain such contests, provide Lessor and

Lender reasonable security for Lessee's obligation to pay the costs of complying with such Applicable Laws and Regulations (should the contest prove unsuccessful) and any lien, encumbrance, charge, fine or other penalty which could reasonably be expected to result from such contest or noncompliance with such Applicable Laws and regulations during the period of such contest.

The Lessor shall reasonably cooperate with the Lessee, at the Lessee's cost and expense, in connection with any procedures pursuant to this **Section 8.4** and Lessee shall pay all reasonable out of pocket costs of the Lessor in connection therewith (including, without limitation, reasonable attorneys' fees).

The Lessee agrees that each such contest shall be promptly and diligently prosecuted to a final conclusion. The Lessee shall pay and save the Indemnified Parties harmless against any and all losses, judgments, decrees and costs (including all attorneys' fees and expenses) in connection with any such contest and shall, promptly after the final determination of such contest, fully pay and discharge the amounts which shall be levied, assessed, charged or imposed or be determined to be payable therein or in connection therewith, together with all penalties, fines, interest, costs and expenses thereof or in connection therewith, and perform all acts the performance of which shall be ordered or decreed as a result thereof.

**SECTION 8.5. Environmental Compliance.** (a) The Lessee shall promptly notify Lessor of (i) any fact, circumstance, condition, occurrence or Release at or from the Property relating to or as a result of noncompliance with any applicable Environmental Law or Environmental Approval, such notice to be given no later than thirty (30) days after the condition is discovered or such Release or occurrence takes place, whichever is later, and (ii) any pending or threatened Environmental Claim against the Lessee relating to the Property, such notice to be given no later than ten (10) Business Days after such Environmental Claim is commenced or threatened. To the extent possible, all such notices shall describe in reasonable detail the nature of the Environmental Claim, Release, investigation, condition, incident or occurrence and Lessee's response thereto.

(b) Upon the written request of the Lessor, the Lessee shall provide the Lessor with copies of all written communications and other documents relating to the subject of any notice required under **Section 8.5(a)**.

(c) The Lessee shall provide such reports relating to any Environmental Claim in such detail as may be reasonably requested by the Lessor. In addition, if any Release or other condition occurs at the Property that may result in an expense in excess of \$50,000 relating to or as a result of noncompliance with any applicable Environmental Law or Environmental Approval, or form the basis of any material Environmental Claim, Lessee shall conduct, at the Lessee's sole cost and expense, a Phase I environmental audit and a Phase II environmental audit for the Property if the Phase I environmental audit discloses any environmental condition or conditions

that reasonably require a Phase II environmental audit. All audits pursuant to this provision shall be prepared by an environmental engineering or consulting firm reasonably acceptable to the Lessor and the Lender in accordance with ASTM standards.

(d) The Lessor may require the Lessee to take any and all actions, at the Lessee's sole cost and expense, necessary to conduct and complete any investigation, study, sampling and testing and undertake any cleanup, removal, remedial, corrective, response or other action necessary to abate, correct, remove and clean up or remediate any violation of applicable Environmental Laws or any Release at or from the Property in compliance with applicable Environmental Laws and Environmental Approvals.

(e) Subject to the terms of Article XIV hereof, the Lessor, or its agents, employees, contractors, or representatives, shall have the right, but not the duty, at Lessee's cost and expense, to enter upon the Property to monitor and inspect any Release thereon or any violation, if any, of an applicable Environmental Law or Environmental Approval relating thereto, if after being required to do so, the Lessee fails to contest the allegations surrounding such violation in accordance with Section 8.4 hereof or commence such remediation promptly thereafter and to continue diligently to effect such remediation or contest. In exercising its rights herein, each such party shall use reasonable efforts to minimize interference with the Lessee's business but any such entry shall not constitute an eviction of the Lessee, in whole or in part. If any Governmental Authority shall ever require testing to ascertain whether there has been a Release or violation of applicable Environmental Laws or Environmental Approvals, the costs thereof shall be paid by the Lessee.

(f) The Lessee will not cause or permit the use, Release, generation, treatment, storage, recycling or disposal of any Hazardous Material on the Property or the transportation of Hazardous Materials to or from the Property by the Lessee, its sublessees and/or its or their respective agents, employees, contractors or invitees other than (i) in compliance with all applicable Environmental Laws and Environmental Approvals and (ii) as necessary to use, operate and maintain the Property as is currently or may in the future be used in the operation of the Lessee's business.

(g) The Lessee shall comply with all Environmental Laws and Environmental Approvals now or hereafter applicable to the use, modification, operation, construction or maintenance of the Property and Lessee shall have sole responsibility for all expenses. The Lessee covenants that from and after the Lease Term Commencement Date it shall not install or permit the installation by the Lessee, its sublessees, and/or its and their respective agents, employees, contractors and invitees, of any asbestos-containing materials in or on the Property and the Lessee shall not construct or permit the construction or installation of any underground storage tanks (other than in compliance with applicable Environmental Laws and Environmental Approvals) or surface impoundments on the Property and shall cause any alterations of the Property undertaken by, through or under the Lessee to be done in a way so as to prevent exposure of persons

working on or visiting the Property to Hazardous Material in excess of safety levels established by any applicable Environmental Laws or Environmental Approvals and so as not to result in liability under any applicable Environmental Law or Environmental Approval.

(h) The Lessee shall obtain, at or prior to the time required by applicable Environmental Laws, all Environmental Approvals necessary for the full use, operation and maintenance of the Property and maintain such Environmental Approvals in full force and effect.

(i) The Lessee's obligations under this Section 8.5 are subject in all respects to the provisions of Section 8.4 hereof.

**SECTION 8.6. Compliance with Laws.** The Lessee shall, throughout the Lease Term at the Lessee's sole cost and expense, promptly comply, and cause the Property to comply with:

(a) the requirements of all Applicable Laws and Regulations, whether present or future, foreseen or unforeseen, ordinary or extraordinary, and irrespective of the cost thereof, which may be applicable from time to time to (i) the Property or any part thereof, including, but not limited to, the foundations of any building or improvements constituting a part of the Property or any appurtenances thereto, (ii) the use, improvement, maintenance or occupation of the Property, including, but not limited to, any demolition, construction, alteration, structural change or addition of, in or to any building or other improvement at any time upon, connected with, appurtenant to or constituting a part of the Property, or (iii) any agreement, easement, encumbrance, covenant or restriction of public record as of this date or other such matters of record after this date filed or recorded with the consent of the Lessee, affecting the Property or any part thereof;

(b) the requirements of any applicable regulation, rule or order of any board of fire underwriters, fire insurance rating organization, or other body having similar functions, or of any liability or fire insurance company insuring the Property, whether present or future, foreseen or unforeseen, ordinary or extraordinary, and irrespective of the cost thereof, which may be applicable from time to time and whether or not compliance is required on account of any particular use to which the Property or any part thereof may be put, in each case to the extent necessary to maintain in effect any policy of insurance required hereby; and

(c) all required licensing or permitting required by any Governmental Authority and/or by any Applicable Laws and Regulations.

The Lessee's obligations under this Section 8.6 are subject in all respects to the provisions of Section 8.4 hereof.

**SECTION 8.7. Operating Expenses.** (a) The Lessee shall pay when due (subject to the Lessee's right to contest payment of any amount as to which the Lessee has a good faith dispute, provided any such contest must be diligently conducted in good faith by appropriate proceedings, made in accordance with **Section 8.4**) all costs and expenses of operating, using, repairing and maintaining the Property, including, without limitation, all Impositions, all premiums and charges for all insurance policies required to be maintained by the Lessee under this Lease and all payments and charges for gas, electricity, light, heat, water, sewerage and power, for protective and security services, for telephone and other communication services, and for all other public or private utility services, which shall be used, rendered or supplied upon or in connection with the Property, or any part thereof, and the Lessee shall do all things required for the maintenance and continuance of all such services as are necessary for the proper maintenance and operation of the Property.

(b) For purposes of this **Section 8.7**, the term "**Impositions**" shall mean, collectively, all taxes of every kind and nature (including real property, *ad valorem*, personal property, gross income, withholding, profits and gross receipts taxes) on or with respect to the Property; all general and special assessments, levies, permits, inspection and license fees on or with respect to the Property; all water and sewer rents with respect to the Property; and all other public charges or taxes whether of a like or different nature, even if unforeseen or extraordinary, imposed or assessed upon or with respect to the Property, prior to or during the Lease Term, against the Lessor, the Lender, the Lessee or any of the Property as a result of or arising in respect of the occupancy, leasing, use, maintenance, operation, management, repair or possession thereof, or any activity conducted on the Property, or the Basic Rent or Supplemental Rent, including, without limitation, any gross income tax, sales tax, occupancy tax, or excise tax levied by any Governmental Authority on or with respect to such Basic Rent or Supplemental Rent. If received, the Lessor shall promptly deliver to the Lessee any bill or invoice with respect to any Imposition. Nothing herein shall obligate the Lessee to pay, and the term "**Impositions**" shall not include, federal, state and local (i) transfer taxes as a result of a conveyance by (or suffered by) the Lessor, (ii) franchise, capital stock, or similar taxes, if any, of the Lessor, (iii) income, excess profits or other taxes, if any, of the Lessor, determined on the basis of or measured by its net income, or (iv) any estate, inheritance, succession, gift, capital levy or similar taxes, unless any taxes described in clauses (ii) or (iii) above are in lieu of or a substitute for any other tax or assessment upon or with respect to any of the Property which, if such other tax or assessment were in effect at the commencement of the Term, would be payable by the Lessee hereunder. In the event that any assessment against the Property may be paid in installments, the Lessee shall have the option to pay such assessment in installments, and, in such event, the Lessee shall be liable only for those installments which become due and payable during the Lease Term.

## ARTICLE IX.

## USE AND LOCATION

**SECTION 9.1. Location.** The Lessee shall not remove, or permit to be removed, the Improvements or any part thereof from the Property without the prior written consent of the Lessor, except that the Lessee or any other Person may remove (a) any Severable Alteration with respect to which title has passed to or remained with the Lessee in accordance with the provisions of **Section 8.3**, (b) any part of the Improvements on a temporary basis for the purpose of repair or maintenance thereof or (c) any part of an Improvement which has been replaced by another part of equal or greater value and utility and which has become subject to this Lease.

**SECTION 9.2. Use.** The Lessee may use the Property for any lawful purpose. The Lessee shall not permit any unlawful occupation, business or trade to be conducted on the Property or any use to be made thereof contrary to Applicable Laws and Regulations or the Insurance Requirements. The Lessee shall not use, occupy or permit any of the Property to be used or occupied, nor do or permit anything to be done in or on any of the Property, in a manner which would (i) make void or voidable any insurance which the Lessee is required hereunder to maintain then in force with respect to any of the Property or (ii) affect the ability of the Lessee to obtain any insurance which the Lessee is required to obtain hereunder.

## ARTICLE X. INSURANCE

**SECTION 10.1. Coverage.** The Lessee shall maintain, or cause to be maintained, at its sole expense, the following insurance on the Premises (herein called the "Required Insurance"):

(a) **Property.** Property insurance insuring the Improvements for perils covered by the causes of loss - special extended coverage form (all risk) or comparable broad form coverage satisfactory to the Lessor and the Lender and in addition, vandalism and malicious mischief, ordinance or law coverage (including demolition cost, increased cost of construction, and loss to undamaged improvements), and boiler and machinery and computer/EDP-related damages (if applicable). Such insurance shall be written on a 100% full replacement cost basis with an agreed value equal to the full insurable replacement value of the foregoing and shall be in such form or with such endorsements as necessary to prevent the operation of any co-insurance penalty. The policy shall name the Lessor and the Lender as additional insureds as their interests may appear and shall name the Lender as sole loss payee. Not more frequently than every year, if in the reasonable opinion of the Lessor the amount of the Lessee's property insurance is found to be less than that customary for prudent owners of established reputations, similarly situated, of similar properties, the Lessee will increase the insurance amount as required by the Lessor.

The deductible for coverage under this subparagraph shall not exceed Fifty Thousand Dollars (\$50,000).

(b) **Liability.** Commercial general liability insurance naming the Lessor, the Asset Manager and the Lender as additional insureds against any and all claims as are customarily covered under a standard policy form (which must provide for claims to be made on an occurrence basis) routinely accepted, for bodily injury, death and property damage occurring in, or about the Property and adjoining sidewalks arising out of the possession, leasing, condition, use and occupancy of the Property. Such insurance shall have a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence with a Seven Million Dollar (\$7,000,000) aggregate limit and excess umbrella liability insurance in the amount of at least Five Million Dollars (\$5,000,000). If such insurance is provided under a "blanket policy" and the Lessee has other locations that it owns or leases, the policy shall include a Ten Million Dollar (\$10,000,000) aggregate limit per location endorsement. Lessee shall be required to increase its insurance limits from time to time consistent with coverage on properties similarly constructed, occupied and maintained. Such liability insurance shall be primary and not contributing to any insurance available to Lessor and Lessor's insurance, if any, shall be in excess thereto. In no event shall the limits of such insurance be considered as limiting the liability of Lessee under this Lease. The deductible for coverage under this subparagraph shall not exceed Fifty Thousand Dollars (\$50,000).

(c) **Workers' Compensation, Etc.** Workers' compensation insurance in accordance with statutory law and employers liability insurance with a limit of not less than One Hundred Thousand Dollars (\$100,000) per employee and Five Hundred Thousand Dollars (\$500,000) per occurrence.

(d) **Builder's Risk, Etc.** During any period of construction on the Property, builder's risk insurance insuring perils covered by the causes of loss-special extended coverage form (all risk), non-reporting form, shall be purchased for the value of the alteration and/or additions made to the Property when the work is not insured under the Lessee's property insurance policy, together with general liability and worker's compensation insurance covering all persons engaged in such construction in amounts reasonably required by Lessor. The deductible for coverage under this subparagraph shall not exceed Fifty Thousand Dollars (\$50,000).

(e) **Flood.** Flood insurance in the highest available amount if the Property is located in a special flood hazard zone as designated by the Federal Emergency Management Agency.

(f) **Earthquake.** If the Property is located in an earthquake zone, earthquake insurance in amounts sufficient to prevent Lessor and Lessee from becoming a coinsurer

of any loss but in any event in amounts equal to 100% of the actual replacement value of the Improvements including foundations, and excavations. The deductible for coverage under this subparagraph shall not exceed Fifty Thousand Dollars (\$50,000).

(g) **Business Interruption.** Business interruption insurance in an amount sufficient to pay all Basic Rent, Supplemental Rent and other charges due under the Lease for a period of not less than one (1) year following a direct physical loss to the Property .

(h) **Other.** Such other insurance as the Lessor may, from time to time, reasonably require, or which may, from time to time, be required by any Lender so long as such other insurance is customarily required to be carried on similar properties by institutional lenders.

The Lessor may purchase additional insurance coverage specified in **Section 10.1(a)** for the Property so long as (i) any insurance carried by the Lessor does not prevent, or increase the cost to the Lessee of carrying, insurance required hereby or cause the insurance required to be maintained by the Lessee pursuant to **Section 10.1(a)** to be subject to any so-called "co-insurance" exceptions and (ii) such insurance provides in the policy or by special endorsement that the insurer thereunder waives all rights of subrogation against the Lessee. Any loss of the type customarily covered by the policies described in **Sections 10.1(a), (b) and (c)**, whether actually covered in whole or in part by such policies, shall be the responsibility of the Lessee and the absence of such coverage shall not relieve the Lessee from any of its obligations under any of the Operative Documents.

**SECTION 10.2. Company/Policy Requirements.** The policies required to be maintained by the Lessee shall be with companies having an insurance company claims paying rating equal to or greater than "A" by S&P and A<sub>2</sub> by Moody's and be considered equivalent to a NAIC 1 or other rating acceptable to the *Securities Valuation Office of the National Association of Insurance Commissioners*. Insurers shall be licensed to do business in the state in which the Property is located and shall be domiciled in the USA. Certificates of insurance, in a standard industry form but which entitles the Lessor and the Lender to rely thereon, together with copies of certificates of insurance, shall be delivered to the Lessor upon request prior to the commencement date of this Lease and thereafter, in no event less than ten (10) days prior to the expiration date of each required policy. The Lessee shall have the right to provide insurance coverage which it is obligated to carry pursuant to the terms hereof in a blanket policy or policies, provided each such blanket policy expressly affords coverage to the Property and to the Lessor and the Lender as required by this Lease, and contains an endorsement to the effect that coverage will not be affected by failure to pay any portion of the premium not allocable to the Property or by any other matter not relating to the Property which would otherwise permit the insurer to cancel coverage. Each policy of insurance shall provide notification to the Lessor and the Lender appearing in the loss payee or additional insured clause at least thirty (30) days prior to any cancellation (whether due to non-payment of premium or otherwise) or modification to reduce the insurance coverage.

All insurance policies shall contain a standard, non-contributory, mortgagee clause in favor of the Lender. The Lessee shall cause the insurers to include in the Lessee's insurance policies appropriate clauses pursuant to which the insurance companies (i) waive all right of subrogation against the Lessor and the Lender with respect to losses payable under such policies, and any right of deduction or set-off and (ii) agree that such policies shall not be invalidated should the insured waive in writing prior to a loss any or all right of recovery against any party for losses covered by such policies. Each policy shall provide, or be endorsed to provide, that (1) the coverage and protection afforded the Lessor and the Lender shall not be invalidated or otherwise affected by breach of any declaration, warranty or condition made by or imposed on the Lessee in connection with the policy or by any act or omission of the Lessee, the Lessor, the Lender or other person having any interest in the Property, nor by any change in the use of or title to the Property nor by any foreclosure of any Mortgage, (2) the insurance provided shall be primary without right of contribution from other insurance carried by any person, and (3) the making of the Lessor and the Lender an additional insured shall not impose on any such additional insured any obligation to pay premiums or any other obligation imposed on the insured, all of which shall be the sole responsibility of the Lessee.

**SECTION 10.3. Insurance Following a Lease Event of Default.** Following a Lease Event of Default, the Lessee shall, at the Lessee's sole expense, continue to maintain the insurance required by **Article X** and maintain the Property as required hereby provided the Lessee's right to possession of the Property has not been terminated.

## **ARTICLE XI. RETURN OF PROPERTY**

**SECTION 11.1.** Unless the Property shall have been transferred to the Lessee pursuant to the terms of this Lease, the Lessee shall, on the expiration or sooner termination of this Lease, and at its own expense, return the Property to the Lessor by surrendering the same into the possession of the Lessor free and clear of all Liens other than Lessor Liens and Liens described in clause (vi) of the definition of Permitted Liens, in the condition required by **Section 8.1** hereof and in compliance with all Applicable Laws and Regulations; provided that any Improvements removed from the Property pursuant to **Section 9.1(b)** shall have been returned to and reinstalled at the Property.

At the time of such surrender and/or transfer of possession:

- (a) The Lessee shall be obligated to remove at the Lessee's expense all Severable Alterations and Retained Property at the Property;

(b) All real estate taxes, tangible personal property taxes and assessments and water and sewer rents will be prorated as of the date of expiration or sooner termination hereof in accordance with the prevailing custom in the jurisdiction in which the Property is located, based on the amount of such taxes as of the most recently preceding due date for payment thereof. Said estimated prorated amounts shall be adjusted between the parties at the time of expiration or sooner termination hereof as necessary, and the difference paid by the Lessee to the Lessor (or by the Lessor to the Lessee, as the case may be) within sixty (60) days of receipt of a final statement as to any imposition as to which an estimated prorated amount was paid upon termination;

(c) All subleases affecting the Property or any portion thereof and all contracts pertaining to the operations of the Improvements will, at the Lessor's sole option as to each such sublease or contract, to the extent it is assignable (it being agreed that all such subleases shall be assignable and that the Lessee shall use reasonable commercial efforts to have such contracts contain provisions permitting such assignment by the Lessee), be assigned to the Lessor and assumed by the Lessor;

(d) The Lessee shall transfer to the Lessor or its designee, to the extent legally transferable, or, if not legally transferable, cooperate with the procurement by the Lessor, of all permits and licenses for the operation and use of the Property, it being agreed that the Lessee shall pay any filing fees, transfer fees or other such expenses of any such transfer;

(e) The Lessor and the Lessee will undertake such other actions as are reasonably necessary and appropriate in connection with the expiration or sooner termination of the Lease and the transfer of possession of the Property to the Lessor;

(f) The Lessee will deliver to the Lessor or its designee all keys and combinations in the Lessee's possession to all doors and other locks in the Property;

(g) The Lessee will deliver to the Lessor or its designee at least one complete set of as-built plans of each of the Improvements to the extent in the Lessee's possession or readily available to the Lessee; and

(h) There shall be apportioned, as of the date of such return, all sublease rents, insurance and other revenues and expenses with respect to the Property.

Nothing herein contained shall diminish or otherwise affect the Lessor's remedies under **Section 16.1**.

The Lessee's obligations under **subsections (a) through (h)** above shall survive the expiration or sooner termination hereof.

**ARTICLE XII.**  
**ASSIGNMENT AND SUBLEASING; LESSOR MORTGAGE**

**SECTION 12.1. Assignment and Subleasing.** Provided no Monetary Default or Lease Event of Default is then continuing, the Lessee may assign any of its right, title or interest in, to or under this Lease or may sublease all or any portion of the Property to any Person at any time in its sole discretion, provided that in case of any such assignment (including an assignment by way of merger, consolidation or sale of assets) or sublease, (a) all obligations of the Lessee (including, without limitation, payment of the Basic Rent and Supplemental Rent) shall continue in full effect as obligations of a principal and not of a guarantor or surety, as though no assignment or sublease had been made; (b) the Lessee will notify the Lessor (i) of any assignment and will provide the Lessor with a copy of such assignment at the Lessor's request and (ii) of any sublease of a portion of the Property and will provide the Lessor with a copy of such sublease at the Lessor's request; (c) such assignment or sublease shall be subject and subordinate to this Lease; and (d) any such sublease shall contain an express provision that, (i) during the continuance of a Lease Event of Default and upon written notice from the Lessor, the sublessee shall pay all rent payable under such sublease directly to the Lessor and (ii) the applicable subtenant agrees that upon the election and demand of the Lessor or any owner of the Property (including the Lender subsequent to its acquisition of the Property by foreclosure or otherwise) to attorn, from time to time, to the Lessor or any such owner upon the terms and conditions of the applicable sublease, for the remainder of the term of such sublease. In addition to the foregoing conditions, it shall be a condition precedent to assignment provided in this **Section 12.1** that the assignee shall deliver to the Lessor an instrument, duly authorized and executed and in recordable form, (A) assuming all covenants and obligations of the Lessee under this Lease, and (B) joining in any acknowledgment, consent or agreement theretofore given or entered into by the Lessee with respect to any Lender as of the date of such assignment, including, without limitation, any acknowledgment, consent or agreement relating to the Lessor's assignment of this Lease to such Lender. The obligations of the Lessee hereunder shall continue in full force and effect notwithstanding any assignment or subleasing. Notwithstanding any merger, consolidation or sale (a) of the Lessee, (b) of any parent, subsidiary or Affiliate of the Lessee or (c) of any or all of the assets of the Lessee or any parent, subsidiary or Affiliate of the Lessee, the Lessee (and any successor of the Lessee by such merger, sale or consolidation) shall continue to be obligated for all of the Lessee's obligations hereunder without any abatement, diminution, set-off, reduction, rebate, termination, or decrease.

**SECTION 12.2. Existing Subleases.** The Lessee represents that as of the Basic Term Commencement Date there are no existing subleases of the Property other than the Existing Subleases. So long as no Lease Event of Default has occurred and is continuing, the Lessee shall be entitled to retain any and all rent paid under any sublease of the Property (including the Existing Subleases) during the Lease Term. The Lessee may not permit or suffer to exist any Lien (except Permitted Liens) on any sublease of the Property without the prior written consent of the

Lessor. Upon the expiration or earlier termination of the Lease Term (unless the Lessee has purchased the Property), all subleases (including the Existing Subleases), at the option of the Lessor, shall be assigned to the Lessor, in all cases free and clear of all Liens, except Lessor Liens.

**SECTION 12.3. Subordination of Subleases.** Each sublease entered into after the date hereof (i) shall provide that it is, and at all times shall remain, subject and subordinate to this Lease, to all of the provisions, covenants, agreements, terms and conditions hereof and to any matters to which this Lease is subject and subordinate; and (ii) shall include an agreement by the sublessee, enforceable directly by the Lessor, to confirm such subordination in writing at the request of the Lessor.

**SECTION 12.4. No Mortgage of This Lease by Lessee.** This Lease shall not be mortgaged or pledged by the Lessee, nor shall the Lessee mortgage or pledge the interest of the Lessee in and to the Property or any part thereof or in any sublease other than to the Lessor. Any such mortgage or pledge shall be void. For the purpose of clarification only, the foregoing restriction shall not apply to any property not covered by this Lease. The Lessee agrees to execute on the Basic Term Commencement Date, for prompt filing in the Applicable State (in both the appropriate central and local filing offices), any precautionary Uniform Commercial Code filing reasonably required by the Lessor to notify third parties of Lessor's and Lender's respective interests in the Property.

**SECTION 12.5. [Reserved].**

**SECTION 12.6. Lessor Mortgages.** (a) The Lessee acknowledges that the Lessor may grant one or more Mortgages to the Lender. Unless the Lender elects in writing that this Lease shall be superior to its Mortgage, this Lease shall at all times be subject and subordinate to the lien of any Mortgage, provided that the Lessee receives from the Lender an agreement to the effect that, (i) if the Lender becomes the owner of the Property by foreclosure, deed in lieu of foreclosure or otherwise, this Lease shall remain in effect and the Lessee's possession of the Property will not be disturbed so long as no Monetary Default or Lease Event of Default shall have occurred and be continuing and the Lessee pays all Basic Rent, Supplemental Rent and any other sums payable hereunder as and when due and otherwise timely complies with and performs all of the Lessee's obligations under this Lease, and (ii) so long as this Lease is in force and effect, the Lender shall cause all property insurance proceeds and condemnation awards received by it as a result of any Casualty or Event of Taking to be paid, applied and made available for restoration in accordance with the provisions of this Lease; provided further that the Lessee acknowledges that any such agreement shall contain such provisions for the protection and benefit of the Lender as are typically contained in a "subordination, non-disturbance and attornment agreement" utilized by institutional commercial mortgage lenders, including, without limitation, a provision that Lessee agrees to attorn to the Lender or other transferee upon a transfer of title by reason of foreclosure of such Mortgage or deed in lieu of foreclosure thereof and such other provisions as the Lender may reasonably require. At the direction of the Lessor, the Lessee shall execute any

such agreement provided by the Lender, provided, however, that such agreement shall be in form and substance reasonably acceptable to the Lessee. The Lessee agrees to attorn, at the request of the Lender, to the Lender or other transferee upon a transfer of title by reason of foreclosure of the Lender or deed in lieu of foreclosure thereof. In connection with any proposed transfer, pledge or mortgage of the Lessor's Interest or any portion thereof, the Lessee shall, within fifteen (15) days after the Lessor's written request therefor, provide the Lessor and the proposed transferee and/or the Lender with confirmation in writing that the Lessee shall recognize such transferee as such and as mortgagee under the Mortgage in the event of the consummation of the transaction described in such notice.

(b) The Lessee acknowledges in respect of the Mortgage entered into on the date hereof, that the Lender, as mortgagee thereunder is a direct assignee of the Lessor's interest under this Lease pursuant to an absolute assignment of this Lease and all rents and other amounts payable hereunder, and agrees, for the benefit of the Lender thereunder, (i) that all payments of Basic Rent and Supplemental Rent, all property insurance proceeds, all condemnation awards, all amounts payable in consideration for or in respect of any termination of this Lease prior to the end of the then current Term, and all amounts payable in respect of any conveyance of the Property to the Lessee pursuant to any provision of this Lease, shall be made as set forth in a written direction given by the Lessor to the Lessee and approved in writing by the Lender, (ii) that the Lessee shall not be credited with any such payment not made as set forth in said direction, (iii) that, except as otherwise stated in said direction no amendment, modification, revision or other change to this Lease or consent, approval or determination permitted to be given or made by the Lessor, and no right, power or remedy permitted to be exercised by the Lessor under this Lease may be given, made or exercised (as the case may be) without the prior written consent of the Lender, and (iv) that no subsequent direction by the Lessor shall be honored by Lessee until Lessee receives written notice from the Lender that either (A) said Mortgage has been released of record or (B) the Lender has consented to such subsequent direction. At the request of the Lessor, in respect of such Mortgage, and for the benefit of the Lender thereunder, the Lessee shall execute such written instrument as the Lender may reasonably require acknowledging the foregoing.

(c) No Assignee shall be obligated to perform, or otherwise be liable in any way for, (i) any representation or warranty of any kind made by the Lessor or (ii) any other obligation of the Lessor (except for such obligations that arise from such Assignee's failure to perform any duty, covenant or condition required by this Lease to be performed by the Lessor after the time such Assignee acquires title to the Property). The Lessee and the Lessor, by their respective executions hereof each acknowledge and agree that notwithstanding any such foreclosure, deed in lieu of foreclosure, or other transfer, each and all of such duties, covenants or conditions required to have been performed by the Lessor prior to such transfer shall survive any such transfer and shall be and remain the sole liability of the Lessor. No Assignee shall be obligated to account for or be subject to any offset in respect of any payment of Rent made in advance of the due date thereof unless and then only to the extent such payment of Rent is

actually received by such person. Without limiting the foregoing, the Lessee acknowledges and agrees that the rights of all Assignees in and to Basic Rent, Supplemental Rent and all other amounts payable under this Lease shall not be subject to any abatement whatsoever, or be subject to any defense, setoff, counterclaim, recoupment, deferment, diminution or reduction of any kind by reason of any event or circumstance whatsoever, whether occurring on, after or prior to the date upon which any such Assignee acquired title to the Property. The Lessee shall pay on demand all reasonable fees and expenses of the Lender and its attorneys whether or not such fees and expenses are payable by the Lessor pursuant to the terms of the Mortgage which arise by reason of any Event of Default under this Lease or any request by the Lessee for any amendment or modification of, or waiver or consent relating to, the terms of this Lease or otherwise affecting the Property.

(d) (i) The Lessor and the Lessee agree that the Lender shall not be bound or affected by any of the following (whether purported to be effected by written or oral agreement, consent, course of dealing, or otherwise) which occurs without the express, prior written consent of the Lender: (A) any surrender of the Property or any portion thereof, or any cancellation or termination of this Lease or the Lease Term, or any other alteration of the Term of this Lease, or any agreement to do any of the foregoing (except any termination expressly provided for in **Section 13.1**); or (B) any modification or amendment to this Lease.

(ii) Notwithstanding anything to the contrary contained in this Lease (and without admitting the Lessee has any such rights as hereafter described), the Lessee hereby agrees that in the event of any default by the Lessor under any obligation on its part under this Lease (a "**Lessor Default**") which the Lessee claims would give the Lessee the right, either immediately or after the lapse of a period of time, to terminate this Lease, or to claim a partial or total eviction, or to reduce any rent or other amount payable hereunder, the Lessee will not seek to exercise any such right until it has given notice of such Lessor Default to the Lender and provided to the Lender such period of time after such notice as may be reasonably necessary to cure such Lessor Default, so long as the Lender has commenced and is diligently pursuing remedies to cure such Lessor Default. If in attempting to cure any such Lessor Default, the Lender requires access to the Property, the Lessee shall provide such access at all reasonable times and upon reasonable prior notice. Nothing in this **Section 12.6** shall be construed as (A) creating any right on the part of Lessee to terminate this Lease, claim any eviction, or reduce any Rent or other amount payable under this Lease; (B) obligating the Lender to cure any Lessor Default; or (C) releasing or diminishing any obligation of the Lessee under this Lease.

(iii) All provisions of this Lease providing for any right of approval or consent by the Lender, limiting any liability of the Lender, providing for indemnification of any Mortgagee, granting any right to cure or other right or remedy to the Lender, or otherwise conferring any benefit or protection on the Lender, are made by the Lessor and the Lessee for the express and intended benefit of the Lender, its successors and assigns, as an inducement to the Lender to provide the financing secured by its Mortgage, and with the intent that the Lender may

rely thereon. No amendment or modification of this Lease which could have the effect of altering any such provision shall be effective without the express prior written consent of the Lender which could be affected thereby.

**SECTION 12.7. Assignment of Subleases.** Subject to Lessee's right to collect rents thereunder as provided in **Section 12.2**, the Lessee hereby grants to the Lessor a security interest in all of the Lessee's right, title and interest, whether now existing or hereafter acquired, in, to and under each Existing Sublease and each sublease or assignment entered into after the date hereof, and all rents, issues and profits therefrom as security for the obligations of the Lessee to the Lessor hereunder and under the other Operative Documents, and covenants to execute such documents as the Lessor or the Lender may reasonably request in order to effect any such grant.

### ARTICLE XIII.

#### **LOSS, DESTRUCTION, CONDEMNATION OR DAMAGE**

##### **SECTION 13.1. Payment of Stipulated Loss Value on an Event of Loss.**

Upon the occurrence of an Event of Loss, the Lessee shall promptly (and, in any event, within thirty (30) days after such occurrence) give the Lessor written notice of such Event of Loss and either (a) offer to purchase the Property in accordance with this **Section 13.1** or (b) deliver notice to the Lessor of its intent to effect a substitution of the Property in accordance with **Article 19** hereof. Unless the Lessor rejects the Lessee's offer to purchase the Property in accordance with the last paragraph of this **Section 13.1** or a substitution is effected in accordance with **Article 19** hereof, on the first Stipulated Loss Value Date not less than thirty (30) nor more than ninety (90) days after such notice (the "**Termination Date**") the Lessee shall, subject to the proviso contained in the third paragraph of this **Section 13.1** but without regard to the adequacy of any such Net Casualty Proceeds or Net Condemnation Proceeds, pay to the Lessor an amount (the "**Termination Amount**") equal to the sum of the Stipulated Loss Value for the Property as of such payment date (or, if such Event of Loss is not an Event of Taking, the greater of (i) the Stipulated Loss Value of the Property as of such payment date or (ii) the Fair Market Sales Value of the Property) plus all Basic Rent for the Property payable on or prior to such payment date and other amounts, if any, then due hereunder or under any of the other Operative Documents.

If the Lessor accepts or fails to expressly reject any offer to purchase by the Lessee pursuant to this **Section 13.1** in writing within thirty (30) days from the date of the Lessee's offer (it being agreed that the Lessor's express rejection shall not be deemed effective unless and until the Lender consents thereto in writing), the Lessee shall pay the Termination Amount to the Lessor on such Stipulated Loss Value Date; provided that (i) any Net Casualty Proceeds derived from insurance required to be maintained by the Lessee pursuant to **Section 10.1** of this Lease for the Property then held by the Lessor shall be credited against such Termination Amount, if not already paid by the Lessee, and any Net Casualty Proceeds derived from insurance required to be maintained by the Lessee pursuant to **Section 10.1** of this Lease remaining thereafter shall be paid

to, or retained by, the Lessee or as it may direct or, if such Termination Amount has already been paid by the Lessee, any such Net Casualty Proceeds shall be paid over to, or retained by, the Lessee or as it may direct and (ii) the Lessee's interest in the Net Condemnation Proceeds for the Property then held by the Lessor or the Lender shall be credited against such Termination Amount, if not already paid by the Lessee, and any such Net Condemnation Proceeds remaining thereafter shall be paid over to, or retained by, the Lessee or as it may direct or, if such Termination Amount has already been paid by the Lessee, such Net Condemnation Proceeds shall be paid over to, or retained by, the Lessee or as it may direct. Upon payment in full of the Termination Amount payable pursuant to this **Section 13.1**, (x) the Lease Term shall end, (y) the obligations of the Lessee hereunder (other than any obligations expressed herein as surviving termination of this Lease) shall terminate as of the date of such payment and (z) the Lessor shall transfer to the Lessee, or if the Lessee shall so designate, to the property damage insurer, without recourse or warranty but free and clear of Lessor Liens, all of the Lessor's Interest.

Anything herein to the contrary notwithstanding, if the Lessee shall fail to pay all amounts due by the Lessee under and pursuant to this **Section 13.1**, at the election of the Lessor and the Lender, no sale shall be consummated, and this Lease shall continue in full force and effect, provided, that in the event that the payment to the Lessor under the second sentence of this **Section 13.1** is the Fair Market Sales Value of the Property and such value is not determined prior to the fifth (5th) Business Day preceding the payment date, the Lessee shall not be required to pay the excess of the Fair Market Sales Value of the Property over the Stipulated Loss Value on such payment date, but shall pay such excess within five (5) Business Days following the determination of such value.

In the event that the Lessor expressly rejects in writing the offer of the Lessee to purchase the Lessor's Interest as provided in this **Section 13.1** for the Termination Amount, or in the event that there is no such offer made by Lessee, the Lessee shall pay the following amount to the Lessor or such amount shall be retained (in the case of the proceeds of insurance or condemnation awards) by the Lessor on the date that would otherwise have been the Termination Date: the sum of (A) Net Casualty Proceeds or Net Condemnation Proceeds, as the case may be, plus (B) with respect to an Event of Loss not constituting an Event of Taking, an amount equal to the deductible, including, any self-insurance retention, under such policy or policies (the amounts described in clauses (A) and (B) being collectively referred to as the "**Loss Proceeds**" for the Property), plus (C) all Supplemental Rent then due. Upon payment in full of such amount (1) the Lease Term shall end and (2) the obligations of the Lessee hereunder (other than any obligations expressed herein as surviving termination of this Lease) shall terminate as of the date of such payment.

**SECTION 13.2. Application of Payments.** All Net Proceeds (except for payments under insurance policies maintained other than pursuant to **Article X** of this Lease) received at any time by the Lessor, the Lender or the Lessee from any Governmental Authority, insurance company or other Person with respect to any Condemnation or Casualty to the Property

or any part thereof, shall (except to the extent **Section 13.1, 13.4 or 13.5** applies) be applied as set forth below in this **Section 13.2**. Subject to the provisions of this **Section 13.2**, the Lessee shall control all aspects of any repair, rebuilding, replacement and restoration of the affected Improvements so as to restore the same to at least the value, utility and remaining useful life and, to the extent possible, to substantially the same condition as existed immediately prior to the occurrence of such Condemnation or Casualty and, except to the extent permitted by **Section 8.4**, in accordance with Applicable Laws and Regulations.

(a) If the Casualty or Condemnation shall not constitute an Event of Loss and no Monetary Default or Lease Event of Default has occurred and is continuing, all Net Proceeds which do not exceed the Threshold Amount (when aggregated with all other casualty proceeds or condemnation awards currently being held under this Lease) shall, subject to **Section 13.2(b)**, be paid to the Lessee after its receipt thereof and upon demand therefor by the Lessee, and in any event shall be applied, as necessary, for the repair or restoration of the affected Improvements;

(b) If such Net Proceeds exceed the Threshold Amount (when aggregated with all other casualty proceeds or condemnation awards currently being held under this Lease) or if the terms and conditions of clause (a) above are not satisfied, the full amount of such Net Proceeds shall be paid to a bank or trust company selected by the Lessor from a list of banks having a senior unsecured long term debt rating of "A" or higher by S&P (or equivalent rating by Moody's) submitted by the Lessee (such payee is referred to herein as the "**Depository**"). The Depository shall have no affirmative obligation to prosecute a determination of the amount of, or to effect the collection of, any Net Proceeds unless the Depository shall have been given an express written undertaking to do so. Moneys received by the Depository pursuant to the provisions of this Lease shall not be commingled with the Depository's own funds and shall be held by the Depository in trust, either separately or with other trust funds, for the uses and purposes provided in this Lease. The Depository shall invest any moneys held by it in Permitted Investments and the interest paid to or received by the Depository on the moneys so held in trust shall be added to the moneys so held in trust. The Depository shall not be liable or accountable for any action taken or suffered by the Depository or for any disbursement of moneys made by the Depository in good faith in reliance on advice of legal counsel. In disbursing monies pursuant to this Section, the Depository may rely conclusively on the information contained in any notice given to the Depository by the Lessee (a copy of which shall be sent to the Lessor) in accordance with the provisions hereof unless the Lessor notifies the Depository in writing within ten (10) Business Days after the giving of any such notice by the Lessee that (i) the Lessor intends to dispute such information, in which case the disputed amount shall not be disbursed but shall continue to be held by the Depository until such dispute shall have been resolved through binding arbitration within thirty (30) days or (ii) a Monetary Default or Lease Event of Default has occurred and is continuing, in which case the proceeds shall be held in accordance with **Section 21.9** hereof;

(c) If such Net Proceeds are being held pursuant to clause (b) above, from time to time, but not more often than once in any 30-day period, and provided that the Lessee has first paid any amounts required to be paid by the Lessee out of its own funds hereunder, the Lessee may (i) request reimbursement out of such Net Proceeds for the actual costs and expenses incurred by the Lessee in connection with such repair and rebuilding; or (ii) request the Depository to pay such costs and expenses directly to contractors and suppliers. Such requests shall be made by written notice to the Depository with a copy to the Lessor, setting forth in reasonable detail all of such costs and expenses incurred by the Lessee and certifying that (1) all of such costs and expenses are due and owing (or will be due and owing within the next 30 days) and (2) such costs and expenses were not the subject of a previous certificate delivered pursuant to the penultimate sentence of this clause (c). Any request by the Lessee for the payment of Net Casualty Proceeds shall also be accompanied by (I) a certificate of a licensed architect certifying:

(A) that the restoration has been completed to the extent set forth in the request by the Lessee in compliance in all material respects with the approved plans for such restoration; and

(B) the cost, as reasonably estimated by such certifying party, of the restoration to be completed subsequent to the date of such certificate;

and (II) an Officer's Certificate of the Lessee certifying that:

(A) the amount of Net Casualty Proceeds then held by the Depository are sufficient to complete the restoration to be completed subsequent to the date of such certificate or if not, that the Lessee shall make available funds which, together with the undisbursed Net Casualty Proceeds, are sufficient to complete the restoration;

(B) no Monetary Default or Lease Event of Default is continuing; and

(C) no Liens other than Permitted Liens have arisen out or any labor performed in connection with such repair and restoration.

If the Lessor shall in good faith desire to dispute the information contained in any notice given by the Lessee, the Lessor shall so notify the Lessee and the Depository, as the case may be, in writing within five (5) Business Days after the giving of such notice, specifying the amount intended to be disputed and the nature of the dispute. After such five (5) Business Days period has elapsed, if the Lessor or the Lender has not disputed the information contained in the Lessee's notice, the Depository shall promptly disburse to the Lessee out of such Net Proceeds the amount of such costs and expenses;

(d) Subject to **Section 13.4**, and once such repair and restoration is completed and fully paid for, any Net Casualty Proceeds under insurance paid for or provided by the Lessee in excess of amounts necessary for the repair or restoration of the affected Improvements shall be paid to the Lessee; and

(e) Any Net Condemnation Proceeds shall be applied in accordance with the terms of this Lease.

During any period of repair or rebuilding pursuant to this **Article XIII**, this Lease will remain in full force and effect and Basic Rent shall continue to accrue and be payable without abatement or reduction. The Lessee shall maintain records setting forth information relating to the receipt and application of payments in accordance with this **Section 13.2**. Such records shall be kept on file by the Lessee at its offices and shall be made available at its then current location to the Lessor during normal business hours upon request. All repair and rebuilding pursuant to this **Article XIII** shall be done in compliance with the requirements of **Section 8.2(a)** (as if references therein to "Alterations" were to such repair and rebuilding).

**SECTION 13.3. Application of Certain Payments Not Relating to an Event of Taking.** In case of a requisition for temporary use of all or a portion of the Property which is not an Event of Taking for the Property, this Lease shall remain in full force and effect, without any abatement or reduction of Basic Rent, and the Net Condemnation Proceeds for the Property shall, unless a Monetary Default or a Lease Event of Default has occurred and is continuing, be paid to the Lessee, except that any portion of such Net Condemnation Proceeds that was awarded with respect to the time period after the expiration or termination of the Lease Term shall be paid to the Lessor. Following the occurrence of any Condemnation which is not an Event of Taking of the Property, Lessee shall to the extent possible restore the Property to the condition existing prior to the date of such Condemnation not constituting an Event of Taking and this Lease shall remain in full force and effect, without abatement or reduction of Basic Rent

**SECTION 13.4. Dispositions of Proceeds During Default.** So long as a Monetary Default or a Lease Event of Default shall have occurred and be continuing, any amount that would otherwise be payable to, or for the account of, or that would otherwise be retained by, the Lessee pursuant to this **Article XIII** shall be paid to the Lessor and held by the Lessor as security for the obligations of the Lessee under this Lease and held pursuant to **Section 21.9** hereof.

**SECTION 13.5. Negotiations.** In the event any part of the Property becomes subject to Condemnation proceedings, the Lessee shall give notice thereof to the Lessor promptly after the Lessee has knowledge thereof, and so long as this Lease has not been terminated and no Monetary Default or Lease Event of Default is continuing, the Lessee shall control the negotiations with the relevant Governmental Authority; provided that in any event the Lessor may participate at its respective expense in such negotiations and no settlement will be made without

Lessor's prior written consent, not to be unreasonably withheld unless a Lease Event of Default is continuing in which case Lessor may withhold its consent in its sole discretion. The Lessee shall give to the Lessor such information, and copies of such documents, which relate to such proceedings, or which relate to the settlement of amounts due under insurance policies required by **Article X**, and are in the possession of the Lessee, as are reasonably requested by the Lessor.

**SECTION 13.6. No Rent Abatement.** Rent shall not abate hereunder by reason of any Casualty or any Condemnation when this Lease does not terminate in accordance with the provisions of **Section 13.1**, and the Lessee shall continue to perform and fulfill all of the Lessee's non-Rent obligations, covenants and agreements hereunder to the extent reasonably practicable given such Casualty or Condemnation. Without limiting the foregoing, the Lessee expressly waives the provisions and benefits of any present or future law relating to damage or destruction or condemnation (including, without limitation, any statutes now or hereafter in effect in any jurisdiction where the Property is located) and agrees that the provisions of this Lease shall control the rights of the Lessor and the Lessee with respect to damage or destruction or any condemnation.

**SECTION 13.7. Investment.** Provided that no Monetary Default or Lease Event of Default is continuing, the Lessor agrees that, to the extent the Lessor can control how any funds held by the Lessor or the Depository pursuant to this **Article XIII** are invested in Permitted Investments, the Lessor shall follow the instructions of the Lessee with respect to the nature and timing of such investments.

#### **ARTICLE XIV.** **INSPECTION, REPORTS AND NOTICES**

**SECTION 14.1. Inspection.** Upon fifteen (15) days' prior notice to the Lessee (or, during the continuance of a Lease Default or Lease Event of Default or at any time after Lessee has failed to exercise any renewal option in the manner and at the times described in **Article IV** hereof, at any time after reasonable notice to the Lessee) the Lessor, the Lender and their respective authorized representatives (collectively, the "**Inspecting Parties**") may inspect or investigate, at their own expense (unless a Lease Default or Lease Event of Default is continuing, in which case such inspection shall be at Lessee's expense), the Property. The Lessee shall furnish to the Inspecting Parties statements accurate in all material respects regarding the condition and state of repair of the Property upon request of the Inspecting Parties, but no more than once per year (or, during the continuance of a Lease Default or Lease Event of Default or at any time the Lessee has failed to exercise its renewal options in the manner and at the times described in **Article IV** hereof, at such times and as often as may be reasonably requested by any Inspecting Party). No inspection shall unreasonably interfere with the Lessee's operations or the use by any other occupant of the Property and shall be subject to and consistent with the reasonable security requirements of the Lessee. The Lessee shall be entitled to refuse access to any Person who does

not agree to so comply with the Lessee's security requirements. None of the Inspecting Parties shall have any duty to make any such inspection or inquiry and none of the Inspecting Parties shall incur any liability or obligation by reason of not making any such inspection or inquiry. None of the Inspecting Parties shall incur any liability or obligation by reason of making any such inspection or inquiry unless and to the extent such Inspecting Party causes damage to the Property or any property of the Lessee or any other Person during the course of such inspection.

The Inspecting Parties agree to use reasonable efforts to consider and treat any information obtained by such parties pursuant to this **Article XIV** which is marked as confidential by the Lessee as confidential; provided, however, that nothing herein contained shall limit or impair the right or obligation of any Inspecting Party to disclose such information: (i) to its directors, trustees, auditors, attorneys, employees, lenders or proposed lenders, or agents who would have access to such information in the normal course of the performance of such Person's duties provided that they are bound by the confidentiality restrictions of this provision, (ii) which is required by any law, ordinance or governmental order, regulation, rule, policy, investigation or any regulatory authority request, (iii) as may be required or appropriate in any report, statement or testimony submitted to the National Association of Insurance Commissioners or any municipal, state, provincial or federal regulatory body having jurisdiction over such Inspecting Party, (iv) to use the same in connection with the enforcement of the terms and conditions of this Lease or the Operative Documents, (v) which is publicly available or readily ascertainable from public sources, or which is received by any Inspecting Party from a third Person who or which is not bound to keep the same confidential, (vi) in connection with any proceeding, case or matter pending (or on its face purported to be pending) before any court, tribunal, arbitration board or any governmental agency, commission, authority, board or similar entity, or (vii) necessary in connection with any contemplated transfer of an Inspecting Party's interest in the Overall Transaction (it being understood and agreed that any such proposed transferee shall itself agree in writing to be bound by the terms and provisions hereof).

**SECTION 14.2. Reports.** (a) The Lessee will deliver or cause to be delivered to the Lessor and the Lender copies of all the following documents filed by the Lessee or by Huntington Bancshares Incorporated, a Maryland corporation, (together with any successor by merger or otherwise to all or substantially all of the assets thereof, the "**Reporting Person**"), with any governmental or regulatory agency, including, without limitation (1) with respect to the Lessee, all Call Reports filed with the Office of Comptroller of the Currency ("**OCC**"), and all other financial statements, reports or similar filings made with the Federal Deposit Insurance Corporation ("**FDIC**") or Board of Governors of the Federal Reserve (the "**Fed**") or (2) with respect to the Reporting Person, all 8-K, 10-K and 10-Q reports, financial statements, annual reports, filings, effective registration statements, and proxy statements filed with the Securities and Exchange Commission (the "**SEC**") in each case within fifteen (15) days following delivery to the SEC, OCC, FDIC, Fed, any other governmental agency, or its stockholders, as the case may be; provided, however, that if the Reporting Person does not file such statements and reports with the SEC, the Lessee will deliver or cause to be delivered to the Lessor the following:

(i) Within sixty (60) days after the end of each quarterly fiscal period (except the last) in each fiscal year of the Reporting Person, duplicate copies of: (A) a consolidated balance sheet of the Reporting Person and its consolidated subsidiaries as at the end of each quarter, (B) a consolidated statement of profits and losses of the Reporting Person and its consolidated subsidiaries for the current quarter and the portion of the fiscal year ending with such quarter, and (C) a consolidated statement of cash flows of the Reporting Person and its consolidated subsidiaries for the portion of the fiscal year ending with the current quarter; setting forth in each case in comparative form the figures of the corresponding periods a year earlier, all in reasonable detail and certified as having been prepared in accordance with GAAP and certified as complete and correct by a senior financial officer of the Reporting Person;

(ii) Within ninety (90) days after the end of each fiscal year of the Reporting Person, duplicate copies of: (A) a consolidated balance sheet of the Reporting Person and its consolidated subsidiaries as at the end of such year, (B) consolidated statements of profits and losses and cash flows of the Reporting Person and its consolidated subsidiaries for such year, and (C) a consolidated statement of cash flows of the Reporting Person and its consolidated subsidiaries for such year; setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and accompanied by the report thereon, containing an opinion unqualified as to limitations imposed by the Reporting Person on the scope of the audit, of a firm of independent certified public accountants of recognized national standing selected by the Reporting Person which opinion shall state that the consolidated financial statements of the Reporting Person and its consolidated subsidiaries fairly present the financial condition of the companies (including the results of their operations and changes in financial position) being reported upon, have been prepared in accordance with GAAP and that the examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances; and

(iii) Each set of annual financial statements shall be accompanied by a certificate of a senior financial officer of the Reporting Person stating whether or not an Event of Default has occurred since the later of the date of this Lease or the date of the last such statement submitted to the Lessor pursuant to this sentence. In addition, the Lessee shall submit to the Lessor copies of all financial information submitted by the Reporting Person to its institutional lenders, bondholders and other institutional investors as and when such information is delivered to such other parties, provided, however, the Lessee shall not be required to provide any information in the nature of business or financial projections, business plans or other information which could be useful to Competitors of the Lessee or its Affiliates unless such information is provided to the Reporting Person's institutional lenders generally. Upon the prior written request of the

Lessor, the Lessee shall cause a senior financial officer of the Reporting Person to meet with representatives of the Lessor and the Lender to discuss the business and financial affairs of the Reporting Person (other than any information in the nature of that not required to be disclosed pursuant to the proviso in the sentence immediately preceding) and the financial statements and other information submitted to the Lessor or any Lender pursuant to this Lease.

(b) In the event that the assets and revenues of the Lessee cease to constitute at least 50% of the assets and revenues, respectively, of the Reporting Person, then either (x) the Lessee shall, within ninety days of its obtaining Actual Knowledge of such cessation, cause the Reporting Person to issue a guaranty, in form and substance reasonably satisfactory to the Lessor and the Lender, of all of the obligations of the Lessee under the Operative Documents or (y) the Lessee shall, from and after the end of such ninety-day period and continuing during the Lease Term, deliver or cause to be delivered to the Lessor and the Lender the following:

(i) Within sixty (60) days after the end of each quarterly fiscal period (except the last) in each fiscal year of the Lessee, duplicate copies of: (A) a consolidated balance sheet of the Lessee and its consolidated subsidiaries as at the end of each quarter, (B) a consolidated statement of profits and losses of the Lessee and its consolidated subsidiaries for the current quarter and the portion of the fiscal year ending with such quarter, and (C) a consolidated statement of cash flows of the Lessee and its consolidated subsidiaries for the portion of the fiscal year ending with the current quarter; setting forth in each case in comparative form the figures of the corresponding periods a year earlier, all in reasonable detail and certified as having been prepared in accordance with GAAP and certified as complete and correct by a senior financial officer of the Lessee; and

(ii) Within ninety (90) days after the end of each fiscal year of the Lessee, duplicate copies of: (A) a consolidated balance sheet of the Lessee and its consolidated subsidiaries as at the end of such year, (B) consolidated statements of profits and losses and cash flows of the Lessee and its consolidated subsidiaries for such year, and (C) a consolidated statement of cash flows of the Lessee and its consolidated subsidiaries for such year; setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and accompanied by the report thereon, containing an opinion unqualified as to limitations imposed by the Lessee on the scope of the audit, of a firm of independent certified public accountants of recognized national standing selected by the Lessee which opinion shall state that the consolidated financial statements of the Lessee and its consolidated subsidiaries fairly present the financial condition of the companies (including the results of their operations and changes in financial position) being reported upon, have been prepared in accordance with GAAP and that the examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards, and accordingly included such tests of the

accounting records and such other auditing procedures as were considered necessary in the circumstances.

**SECTION 14.3. Rating Agency Reports.** The Lessee shall provide to each of the Lessor and the Lender copies of all financial statements, reports and other written information that it delivers to any Rating Agency, at such times and in such form as the same shall be delivered to such Rating Agency. In addition, if at any time separate, audited financial statements of the Lessee are produced in accordance with GAAP in the ordinary course of the Lessee's business, the Lessee shall provide copies of such financial statements to the Lessor and the Lender when the same become available.

**SECTION 14.4. Confidentiality.** For the purposes of this Section, "Confidential Information" means information delivered to the Lessor or the Lender by or on behalf of the Lessee in connection with the transactions contemplated by or otherwise pursuant to the Overall Transaction that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by such Person as being confidential information of the Lessee, provided that such term does not include information that (a) was publicly known or otherwise known to such Person prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by such Person or any person acting on behalf of such Person, (c) otherwise becomes known to such Person other than through disclosure by the Lessee or (d) constitutes financial statements delivered to such Person under Section 14.2 and 14.3 that are otherwise publicly available.

Each of the Lessor and the Lender will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by it in good faith to protect confidential information of third parties delivered to it, provided that each such Person may deliver or disclose Confidential Information to (i) the directors, trustees, officers, employees, agents, attorneys and affiliates of each such Person (to the extent such disclosure reasonably relates to the administration of the Overall Transaction), (ii) the financial advisors and other professional advisors of each such Person who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 14.4, (iii) any other Certificateholder, (iv) any institutional investor to which such Person sells or offers to sell such Certificate or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 14.4), (v) any federal or state regulatory authority having jurisdiction over such Person to the extent requested by such authority in the normal exercise of its jurisdiction, (vi) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized statistical rating agency that requires access to information about such Person's investment portfolio (in each case to the extent required by such organization or rating agency), (vii) any other Person to which such delivery or disclosure may be necessary (x) to effect compliance with any law, rule, regulation or order applicable to such Person or (y) in response to any valid subpoena or other legal process or (viii) if an Event of Default has occurred and is continuing, to

the extent the Lessor or the Lender may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under the Mortgage and this Lease.

**ARTICLE XV.  
EVENTS OF DEFAULT**

**SECTION 15.1. Events of Default.** The following events shall constitute Lease Events of Default (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) any payment of Basic Rent or Stipulated Loss Value shall not be made within five (5) days after the date such payment was due;

(b) any payment of Supplemental Rent (which for purposes hereof shall not include Stipulated Loss Value) or any other amount payable hereunder shall not be paid and such failure shall continue for a period of fifteen (15) Business Days after written notice of such failure to the Lessee from the Lessor;

(c) (i) insurance in the amounts required by **Section 10.1** or **10.2** hereof shall fail to be maintained or (ii) Impositions required to be paid pursuant to **Section 8.7** hereof shall not be paid in accordance with such section and in the case of clause (ii), such failure shall continue for ten (10) Business Days after written notice of such failure to the Lessee from the Lessor or other payee of such Imposition;

(d) the Lessee shall fail to perform in any material respect any covenant, condition or agreement (not included in clauses (a), (b) or (c) of this **Section 15.1**) to be performed by it hereunder or under any other Operative Document and such failure shall continue for a period of thirty (30) days after written notice thereof to the Lessee from the Lessor; provided that if such default is capable of being cured within a period of 180 days but cannot be cured within such initial 30 day period, the cure period shall be extended, for as long as is necessary to effectuate a cure, so long as the Lessee is diligently pursuing such cure and so long as such extended cure period does not exceed 180 days;

(e) any declaration of insolvency shall be made by the OCC with respect to the Lessee, or the filing by the Lessee of any petition for dissolution or liquidation of the Lessee, or the commencement by the Lessee of a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or the Lessee shall have consented to the entry of an order for relief in an involuntary case under any such law, or the failure of the Lessee generally to pay its debts as such debts become due (within the meaning of the Bankruptcy Code or any other applicable bankruptcy laws), or

the failure by the Lessee promptly to satisfy or discharge any execution, garnishment or attachment of such consequence as would have a Material Adverse Effect, or the appointment of or taking possession by a receiver, conservator, custodian or trustee (or other similar official) for the Lessee or any substantial part of its property, or a general assignment by the Lessee for the benefit of its creditors, or the entry by the Lessee into an agreement of composition with its creditors, or the Lessee shall have taken any corporate action in furtherance of any of the foregoing; or the filing against the Lessee of an involuntary petition in bankruptcy which results in an order for relief being entered or, notwithstanding that an order for relief has not been entered, the petition is not dismissed within ninety (90) days of the date of the filing of the petition, or the filing under any law relating to bankruptcy, insolvency or relief of debtors of any petition against the Lessee for reorganization, composition, extension or arrangement with creditors which either (i) results in a finding or adjudication of insolvency of the Lessee or (ii) is not dismissed within ninety (90) days of the date of the filing of such petition (the term "dissolution or liquidation" of the Lessee, as used in this paragraph (e), shall not be construed to include the cessation of the corporate existence of the Lessee resulting either from a merger or consolidation of the Lessee into or with another corporation or a dissolution or liquidation of the Lessee following a transfer of all or substantially all of its assets as an entirety as permitted by the express terms of the Operative Documents); or

(f) any representation or warranty (other than Lessee's representations and warranties regarding the compliance of the Property with applicable zoning and other applicable laws, ordinances and regulations) by the Lessee in any Operative Document or in any financial statement, certificate or document delivered pursuant to any Operative Document shall have been incorrect in a material respect when made and shall remain material when discovered.

## **ARTICLE XVI. ENFORCEMENT**

**SECTION 16.1. Remedies.** Upon the occurrence of any Lease Event of Default, the Lessor may, at its option, by notice to the Lessee declare this Lease to be in default, and subject to Applicable Laws and Regulations, at any time thereafter the Lessor may, so long as such Lease Event of Default is continuing, do one or more of the following as the Lessor, in its sole discretion, shall determine:

(a) the Lessor may, by notice to the Lessee, rescind or terminate this Lease as of the date specified in such notice; however, (A) no reletting, reentry or taking of possession of the Property by the Lessor will be construed as an election on the Lessor's part to terminate this Lease unless a written notice of such intention is given to the Lessee, (B) notwithstanding any reletting, reentry or taking of possession, the Lessor may at any

time thereafter elect to terminate this Lease for a continuing Lease Event of Default, and (C) no act or thing done by the Lessor or any of its agents, representatives or employees and no agreement accepting a surrender of the Property shall be valid unless the same be made in writing and executed by the Lessor;

(b) the Lessor may (i) demand that the Lessee, and the Lessee shall upon the written demand of the Lessor, return the Property promptly to the Lessor in the manner and condition required by, and otherwise in accordance with all of the provisions of, **Articles VIII and XI** hereof as if the Property was being returned at the end of the Lease Term, and the Lessor shall not be liable for the reimbursement of the Lessee for any costs and expenses incurred by the Lessee in connection therewith and if the Property is subject to a management agreement, such management agreement shall at Lessor's option, either be canceled by Lessee without cost to the Lessor or assumed by the Lessor and (ii) without prejudice to any other remedy which the Lessor may have for possession of the Property, enter upon the Property and take immediate possession of (to the exclusion of the Lessee) the Property and expel or remove the Lessee and any other Person who may be occupying the Property, but if such other Person shall have entered into a non-disturbance and attornment agreement with the Lessor only to the extent permitted therein, by summary proceedings, all without liability to the Lessor for or by reason of such entry or taking of possession, whether for the restoration of damage to the Property caused by such taking or otherwise and, in addition to Lessor's other damages, Lessee shall be responsible for the reasonably necessary costs and expenses of reletting, including, without limitation, brokers' fees and the costs of any alterations (but only for use of the Improvements as a limited service budget property and related facilities as presently constituted) or repairs made by Lessor;

(c) the Lessor may sell all or any part of the Lessor's Interest at public or private sale, as the Lessor may determine, free and clear of any rights of the Lessee in which event the Lessee's obligation to pay Basic Rent hereunder for periods commencing after the date of such sale shall be terminated (except to the extent that Basic Rent is to be included in computations under paragraph (e) or (f) below if the Lessor shall elect to exercise its rights thereunder);

(d) the Lessor may hold, keep idle or lease to others the Property as the Lessor in its sole discretion may determine, free and clear of any rights of the Lessee and without any duty to account to the Lessee with respect to such action or inaction or for any proceeds with respect to such action or inaction, except that the Lessee's obligation to pay Basic Rent from and after the occurrence of a Lease Event of Default shall be reduced by the net proceeds, if any, received by the Lessor from leasing the Property to any Person other than the Lessee for the same periods or any portion thereof;

(e) THE LESSOR MAY, WHETHER OR NOT THE LESSOR SHALL HAVE EXERCISED OR SHALL THEREAFTER AT ANY TIME EXERCISE ANY OF ITS RIGHTS UNDER PARAGRAPH (b), (c) OR (d) OF THIS ARTICLE XVI WITH RESPECT TO THE PROPERTY, DEMAND, BY WRITTEN NOTICE TO THE LESSEE SPECIFYING A DATE (THE "FINAL PAYMENT DATE") NOT EARLIER THAN TEN DAYS AFTER THE DATE OF SUCH NOTICE, THAT THE LESSEE PAY TO THE LESSOR, AND THE LESSEE SHALL PAY TO THE LESSOR, ON THE FINAL PAYMENT DATE, AS LIQUIDATED DAMAGES FOR LOSS OF A BARGAIN AND NOT AS A PENALTY (THE PARTIES AGREEING THAT THE LESSOR' ACTUAL DAMAGES WOULD BE DIFFICULT TO PREDICT, BUT THE AFOREMENTIONED LIQUIDATED DAMAGES REPRESENT A REASONABLE APPROXIMATION OF SUCH AMOUNT) AND IN THE CASE OF A PAYMENT PURSUANT TO CLAUSE (iii) BELOW, AS CONSIDERATION FOR THE TRANSFER OF THE PROPERTY (IN LIEU OF BASIC RENT DUE AFTER THE FINAL PAYMENT DATE), AN AMOUNT EQUAL TO THE SUM OF (A) ALL ACCRUED AND UNPAID BASIC RENT AND SUPPLEMENTAL RENT DUE AND UNPAID AS OF THE FINAL PAYMENT DATE, PLUS (B) WHICHEVER OF THE FOLLOWING AMOUNTS THE LESSOR, IN ITS SOLE DISCRETION, SHALL SPECIFY IN SUCH NOTICE (TOGETHER WITH INTEREST ON SUCH AMOUNT AT THE OVERDUE RATE FROM THE FINAL PAYMENT DATE SPECIFIED IN SUCH NOTICE TO THE DATE OF ACTUAL PAYMENT):

(i) IF THE LESSOR'S INTEREST HAS NOT BEEN SOLD, AN AMOUNT EQUAL TO THE EXCESS, IF ANY, OF THE STIPULATED LOSS VALUE FOR THAT PORTION OF THE LESSOR'S INTEREST NOT SO SOLD, COMPUTED AS OF THE FINAL PAYMENT DATE, OVER THE FAIR MARKET SALES VALUE OF SUCH PORTION OF THE LESSOR'S INTEREST AS OF THE FINAL PAYMENT DATE (SUCH FAIR MARKET SALES VALUE TO BE DETERMINED BY MUTUAL AGREEMENT OF THE LESSOR AND THE LESSEE OR IF THEY CANNOT AGREE WITHIN 10 DAYS AFTER SUCH NOTICE BY THE APPRAISAL PROCEDURE (TOGETHER WITH THE PREMIUM, IF ANY, DUE TO THE LENDER);

(ii) IF THE LESSOR'S INTEREST HAS NOT BEEN SOLD, AN AMOUNT EQUAL TO THE EXCESS, IF ANY, OF THE STIPULATED LOSS VALUE COMPUTED AS OF THE FINAL PAYMENT DATE OVER THE PRESENT VALUE OF THE FAIR MARKET RENTAL VALUE FOR THE BALANCE OF THE LEASE TERM DISCOUNTED MONTHLY AT AN INTEREST RATE OF 7.24% (SUCH FAIR MARKET RENTAL VALUE TO BE DETERMINED BY MUTUAL AGREEMENT OF THE

LESSOR AND THE LESSEE OR IF THEY CANNOT AGREE WITHIN 10 DAYS OF SUCH NOTICE BY THE APPRAISAL PROCEDURE) (TOGETHER WITH THE PREMIUM, IF ANY, DUE TO THE LENDER); OR

(iii) IF THE LESSOR'S INTEREST HAS NOT BEEN SOLD, THE STIPULATED LOSS VALUE AND UPON PAYMENT OF SUCH AMOUNT, AND THE AMOUNT OF ANY UNPAID RENT REFERRED TO IN SECTION 16.2 (TOGETHER WITH THE PREMIUM, IF ANY, DUE TO THE LENDER), THE LESSOR SHALL CONVEY TO THE LESSEE ALL OF THE LESSOR'S RIGHT, TITLE AND INTEREST IN AND TO THE PROPERTY WITHOUT RECOURSE OR WARRANTY, BUT FREE AND CLEAR OF LESSOR'S LIENS, AND THEREAFTER, IF THE LESSOR SHALL SO DEMAND, 120% OF THE FAIR MARKET SALES VALUE AND THE FAIR MARKET RENTAL VALUE FOR THE PROPERTY SHALL BE DETERMINED AS PROVIDED IN CLAUSES (i) AND (ii) ABOVE AND IF EITHER OR BOTH OF SUCH VALUES SHALL EXCEED SUCH STIPULATED LOSS VALUE, THE LESSEE SHALL PROMPTLY PAY SUCH EXCESS OR THE LARGER EXCESS, AS THE CASE MAY BE;

(f) IF THE LESSOR SHALL HAVE SOLD THE LESSOR'S INTEREST PURSUANT TO PARAGRAPH (c) ABOVE, THE LESSOR, IN LIEU OF EXERCISING ITS RIGHTS UNDER PARAGRAPH (e) ABOVE, MAY, IF IT SHALL SO ELECT, DEMAND THAT THE LESSEE PAY TO THE LESSOR, AND THE LESSEE SHALL PAY TO THE LESSOR, ON THE DATE OF SUCH SALE, AS LIQUIDATED DAMAGES FOR LOSS OF A BARGAIN AND NOT AS A PENALTY (THE PARTIES AGREEING THAT THE LESSOR'S ACTUAL DAMAGES WOULD BE DIFFICULT TO PREDICT, BUT THE AFOREMENTIONED LIQUIDATED DAMAGES REPRESENT A REASONABLE APPROXIMATION OF SUCH AMOUNT) (IN LIEU OF BASIC RENT DUE FOR PERIODS COMMENCING ON OR AFTER THE STIPULATED LOSS VALUE DATE COINCIDING WITH SUCH DATE OF SALE) (OR, IF THE SALE DATE IS NOT A STIPULATED LOSS VALUE DATE, THE STIPULATED LOSS VALUE DATE NEXT PRECEDING THE DATE OF SUCH SALE), AN AMOUNT EQUAL TO THE SUM OF (A) (I) IF THE SALE DATE IS A STIPULATED LOSS VALUE DATE, ALL SUCH ACCRUED AND UNPAID BASIC RENT PAYABLE IN ARREARS AND DUE AND UNPAID AS OF SUCH SALE DATE OR (II) IF THE SALE DATE IS NOT A STIPULATED LOSS VALUE DATE, THE ACCRUED ARREARS BASIC RENT DUE AND PAYABLE ON SUCH SALE DATE (IT BEING UNDERSTOOD THAT, IN THE CASE OF CLAUSES (I) AND (II) ABOVE, THE LESSEE SHALL PAY WHEN DUE ANY

**BASIC RENT DUE ON A RENT PAYMENT DATE WHICH OCCURS ON OR AFTER THE LEASE EVENT OF DEFAULT BUT PRIOR TO SUCH SALE DATE), PLUS (B) THE AMOUNT OF ANY EXCESS OF THE STIPULATED LOSS VALUE, COMPUTED AS OF SUCH STIPULATED LOSS VALUE DATE, OVER THE NET PROCEEDS OF SUCH SALE, TOGETHER WITH INTEREST AT THE OVERDUE RATE ON SUCH EXCESS FROM SUCH STIPULATED LOSS VALUE DATE TO THE DATE OF SALE, PLUS (C) INTEREST AT THE OVERDUE RATE ON ALL OF THE FOREGOING AMOUNTS FROM THE DATE OF SUCH SALE UNTIL THE DATE OF PAYMENT, PLUS (D) THE AMOUNT OF THE PREMIUM, IF ANY, DUE TO THE LENDER; PROVIDED, HOWEVER, TO THE EXTENT THAT THE LESSEE SHALL HAVE PAID BASIC RENT IN ADVANCE ON OR AFTER THE DATE THE LEASE EVENT OF DEFAULT OCCURRED BUT PRIOR TO SUCH SALE DATE, THE AMOUNT PAYABLE BY THE LESSEE HEREUNDER SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE ADVANCE BASIC RENT SO PAID MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF DAYS REMAINING IN THE LEASE PERIOD WITH RESPECT TO SUCH ADVANCE BASIC RENT PAYMENT AFTER SUCH SALE DATE AND THE DENOMINATOR OF WHICH SHALL BE THE ACTUAL NUMBER OF DAYS IN SUCH LEASE PERIOD;**

(g) the Lessor may exercise any other right or remedy that may be available to it under Applicable Laws and Regulations or in equity, or proceed by appropriate court action (legal or equitable) to enforce the terms hereof or to recover damages for the breach hereof. Separate suits may be brought to collect any such damages for any Lease Period(s), and such suits shall not in any manner prejudice the Lessor's right to collect any such damages for any subsequent Lease Period(s); and

(h) the Lessor may retain and apply as an offset against the Lessor's damages all sums which the Lessor would, absent such Lease Event of Default, be required to pay to, or turn over to, the Lessee pursuant to the terms of this Lease, including, without limitation, any sums which the Lessor may be required to pay to Lessee under **Section 13.5**.

In the event that any obligation of the Lessee to pay any amount pursuant to this **Section 16.1** is unenforceable, the Lessee shall pay to the Lessor such amount as may be enforceable under Applicable Laws and Regulations.

**SECTION 16.2. Survival of Lessee's Obligations.** No termination of this Lease, in whole or in part, or repossession of the Property or exercise of any remedy under **Section 16.1** shall, except as specifically provided therein, relieve the Lessee of any of its liabilities and obligations hereunder. In addition, the Lessee shall be liable, except as otherwise

provided above, for any and all unpaid Rent, including Supplemental Rent, due hereunder before, after or during the exercise of any of the foregoing remedies, including all reasonable legal fees and other costs and expenses incurred by the Lessor by reason of the occurrence of any Lease Event of Default or the exercise of the Lessor's remedies with respect thereto.

**SECTION 16.3. Remedies Cumulative; No Waiver, Consents.** To the extent permitted by, and subject to the mandatory requirements of, Applicable Laws and Regulations, each and every right, power and remedy herein specifically given to the Lessor or otherwise in this Lease shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Lessor, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any right, power or remedy. No delay or omission by the Lessor in the exercise of any right, power or remedy or in the pursuit of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Lessee or to be an acquiescence therein. The Lessor's consent to any request made by the Lessee shall not be deemed to constitute or preclude the necessity for obtaining the Lessor's consent, in the future, to all similar requests. No waiver by the Lessor of any Lease Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Lease Event of Default.

**ARTICLE XVII.**  
**RIGHT TO PERFORM FOR LESSEE**

If the Lessee shall fail to perform or comply with any of its agreements contained herein and if necessary to protect the value of the Property in the reasonable judgment of Lessor, the Lessor may, on five (5) Business Days' prior written notice to the Lessee (except in the event of an emergency, in which case only such prior notice, if any, as is reasonable under the circumstances shall be required), perform or comply with such agreement, and the Lessor shall not thereby be deemed to have waived any default caused by such failure and such performance or compliance shall not relieve the Lessee from any default hereunder, and the amount of such payment and the amount of the expenses of the Lessor (including reasonable attorney's fees and expenses) incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the Overdue Rate, shall be deemed Supplemental Rent, payable by the Lessee to the Lessor upon demand.

**ARTICLE XVIII.**  
**FINANCING OF NON-SEVERABLE ALTERATIONS**

**SECTION 18.1. Financing of Non-Severable Alterations.** The Lessee shall have the right to arrange separate financing of any Non-Severable Alterations to the Property proposed by the Lessee in accordance with this Lease and shall to the extent permitted by Applicable Laws and Regulations retain all depreciation, interest deductions and other tax benefits associated with the Non-Severable Alterations; provided, however, that such separate financing shall not be secured by such Non-Severable Alterations or any other portion of the Property, Lessor's Interest or Lessee's interest in this Lease or any Sublease.

**ARTICLE XIX.**  
**SUBSTITUTION**

**SECTION 19.1. Substitution.** (a) In the event that (i) the Property in the Lessee's reasonable business judgment becomes economically obsolete or surplus to the Lessee's business and the Lessee has provided written certification to the Lessor that it has discontinued, or will within twelve (12) months after such certification discontinue, its use of the Property or (ii) the Lessee is entitled or required to acquire the Property pursuant to **Section 13.1** hereof upon an Event of Loss, the Lessee shall have the right, upon sixty (60) days' notice to the Lessor, to substitute the Property (the "**Replaced Property**") with another property (the "**Substitute Property**"). The Lessor shall be obligated to accept title to the Substitute Property and to reconvey the Replaced Property to the Lessee in the event the Lessee satisfies each of the following conditions:

(i) The Substitute Property shall be similar in size and utility as the Replaced Property. The aggregate cost, determined as provided in **Section 19.1(a)(ii)** below, or fair market value as determined in **Section 19.1(a)(iii)** below, of the Substitute Property shall be equal to or greater than the greater of the purchase price paid by Lessor with respect to the Replaced Property and the Fair Market Sales Value of the Replaced Property.

(ii) The Lessor shall have received a bill of sale conveying title to all Personalty constituting a portion of the Substitute Property.

(iii) The Lessor shall have received an appraisal (performed in accordance with MAI standards including a comparison of the (x) cost, (y) comparative and (z) income approaches) of the fair market value of such Substitute Property as of a date within 90 days prior to the substitution date, made by an independent appraiser selected by the Lessee and reasonably approved by the Lessor, and which appraisal shall have been made

at the expense of the Lessee. Such appraisal shall be certified to the Lessor and the Lender.

(iv) The Lessor shall have received a special warranty deed (or equivalent instrument) for the Substitute Property conveying fee simple title to the Substitute Property.

(v) The Lessee shall have provided to the Lessor an up-to-date survey, a commitment for the issuance of a policy of title insurance in the amount of the aggregate value (as determined under **Section 19.1(a)(ii)**) of the Substitute Property (and, if the substitution is completed, the Lessee shall provide to the Lessor and the Lender owner's and lender's policies of title insurance in such amount, subject only to matters contained in such commitment and containing such endorsements as were included in the respective policies relating to the Replaced Property), evidence of casualty and liability insurance, a certificate of occupancy, a phase I environmental study, and any other documents or certificates reasonably requested by the Lessor (all of which must be in form and substance reasonably satisfactory to the Lessor and the Lender) relating to the Substitute Property.

(vi) All necessary approvals, authorization and consents of governing bodies (including courts) having jurisdiction with respect to the conveyance of the Substitute Property to the Lessor shall have been obtained, or shall be obtained prior to the closing of the substitution.

(vii) The Lessee shall have paid any and all Impositions and any transfer fees, mortgage recording fees and taxes and closing expenses, including out-of-pocket costs and expenses (including reasonable attorneys' fees (but not the value of the Lessor's or the Lender's time or any internal attorneys' fees or costs) incurred by the Lessor and the Lender (including the Pass-Through Trustee) in connection with the substitution.

(viii) Upon substitution, this Lease and rental and other payment and non-payment obligations of the Lessee will continue unimpaired and unaltered with respect to the Substitute Property.

(ix) The Substitute Property shall comply in all applicable respects to all covenants, conditions, representations and warranties set forth in the Representations and Warranties Agreement and this Lease as if the Substitute Property were originally subject thereto, including without limitation any Hazardous Materials provisions and all indemnifications, representations, warranties and other covenants and obligations of the Lessee hereunder and in the Representations and Warranties Agreement shall survive such substitution and shall, as applicable, apply and remain in full force and effect with respect to the Substitute Property.

(x) The Substitute Property shall, if the Lessee determines in its reasonable judgment that a suitable substitute property is available, be in the same Standard Metropolitan Statistical Area as the Replaced Property, and otherwise shall be in the same size or larger Standard Metropolitan Statistical Area as, and in a Standard Metropolitan Statistical Area having a median household income substantially similar to or greater than, that of the Replaced Property.

(xi) An engineering consultant reasonably acceptable to the Lessor and the Lender shall have conducted an inspection of the Substitute Property and delivered to the Lessor and the Lender a report in form and substance reasonably satisfactory to each.

(xii) The Substitute Property shall not have more extensive existing subleases than the Existing Subleases unless either (i) such additional subleases shall be fully subordinate by their terms to the interests of Lessor and Lender and do not require non-disturbance protections from Lessor or Lender or (ii) the sublessees under such additional subleases shall execute and deliver to Lessor and Lender subordination agreement with no non-disturbance rights therein in form and substance acceptable to Lessor and Lender.

(xiii) A Mortgage on the Substitute Property shall have been duly authorized, executed, delivered and granted to the Lender and forwarded to the appropriate office for recording, with all applicable recording taxes and related costs, if any, paid by Lessee; Uniform Commercial Code financing statements or amendments shall have been filed with respect to the collateral assigned to secure the Loan; and the Lender shall have received such other evidence of the perfection of the security interests purported to be created by the Mortgage as it may reasonably request.

(xiv) The Lender and the Lessor shall have received legal opinions (A) from counsel to the Lessee and the Lessor, in the state in which the Substitute Property is located; (B) as to the authorization of the Lessor to execute and deliver the Mortgage referenced in clause (xiii) above and (C) regarding the authorization of the Lessee to amend this Lease to effect the substitution, in each case in form and substance reasonably satisfactory to the Lender, it being understood that opinions in the form of the opinions received by the Lender on the Closing Date shall be deemed to be satisfactory to the Lender.

(xv) A notice of the transfer of the Substitute Property to the Lessor shall have been given to each subtenant, if any, under any existing sublease with respect to the Substituted Property and, not less than thirty (30) days prior to the effective date of the substitution, the Lessor and the Lender shall have received copies of all such existing subleases.

(xvi) The Lessee shall have delivered to each of the Lessor and the Lender a certificate setting forth the same representations and warranties with respect to the Substitute Property as were given by the Lessee under the Representations and Warranties Agreement.

(xvii) Financial Structures Limited, as residual value insurer, and any applicable reinsurer thereof, shall have approved the substitution and confirmed in writing that the residual value insurance policy issued with respect to the Replaced Property shall remain in full force and effect with respect to the Substitute Property.

(xviii) The Lessee shall have confirmed to the Lessor and the Lender that no Lease Default or Lease Event of Default (other than Lease Defaults or Lease Events of Default that would be cured by the substitution) shall have occurred and be continuing; that all conditions to substitution set forth in this Section 19.1(a) have been satisfied and that this Lease remains in full force and effect with respect to the Substitute Property.

(xix) Each of the Lessor and the Lender shall have received evidence reasonably satisfactory to it that the Substitute Property is in compliance with all Applicable Laws and Regulations.

(b) In the event the Substitute Property is substituted for the Replaced Property, the Lessor and the Lessee shall enter into an amendment of lease which shall delete **Exhibit A** hereto and substitute in its place a new **Exhibit A** containing the legal description of the Substitute Property, and shall cause such amendment (or a memorandum thereof) to be filed or recorded in the appropriate office.

(c) The Lessee shall pay all reasonable expenses (including, without limitation, reasonable attorneys' fees) which are incurred by the Lessee, the Lender and the Lessor in connection with the substitution referred to in paragraph (a) above and the documentation described in paragraph (b) above, whether or not the substitution is consummated.

**SECTION 19.2. Failure of Substitution Conditions.** If any of the conditions set forth in **Section 19.1** cannot be satisfied after the Lessee's good faith, reasonable efforts to satisfy such conditions, then the Lessee shall have the option to discontinue the efforts to provide a Substitute Property by written notice to the Lessor. In such event, the Lessee will then either: (i) in the case of the occurrence of an Event of Loss, proceed with its offer to purchase the Property as set forth in **Section 13.1**; or (ii) in the case of an uneconomic or obsolete Property, as the case may be, continue to lease the uneconomic Property.

**SECTION 19.3. Mandatory Substitution.** If any of the Lessee's representations or warranties herein or in the Representations and Warranties Agreement with respect to the Property's compliance with zoning laws, ordinances and regulations shall have been

incorrect in a material respect when made, shall remain material when discovered and shall result in a material adverse effect on the value or use of the Property, at the request of the Lessor or Lender, the Lessee shall effect a substitution of the Property in accordance with **Section 19.1** above.

**SECTION 19.4. Tax Treatment.** The Lessee agrees that, at the request of the Lessor, the Lessee shall cooperate with the Lessor to structure any Substitution as an Internal Revenue Code Tax-Deferred Exchange, including, to the extent necessary or appropriate, executing any documents related thereto including, but not limited to, an acknowledgment of notice of such exchange, provided such cooperation and such documents impose no obligations, liabilities or costs on the Lessee.

## **ARTICLE XX. ASSET MANAGER**

**SECTION 20.1. Asset Manager.** Each of the Lessor and the Lessee acknowledges that the Lessor has entered into the Asset Management Agreement with the Asset Manager, a copy of which has been provided to the Lessee. During the Lease Term, (i) the Asset Management Agreement shall be maintained in full force and effect by the parties thereto or their permitted successors and assigns, subject, however, to (a) the subordination of such agreement to any Mortgage and (b) any modifications thereto which do not materially adversely affect the Lessee, (ii) subject at all times to compliance with **Section 12.6** hereof, all notices and other communications to the Lessor hereunder shall be directed to the Asset Manager in accordance with the Asset Management Agreement, (iii) subject at all times to compliance with **Section 12.6** hereof, any consent, waiver, approval or other action by the Lessor hereunder other than pursuant to **Article XVI** hereof shall be given or taken by the Asset Manager on behalf of the Lessor and (iv) subject at all times to compliance with **Section 12.6** hereof, the Lessee may rely on any action taken by the Asset Manager on behalf of the Lessor.

## **ARTICLE XXI. MISCELLANEOUS**

**SECTION 21.1. Binding Effect; Successors and Assigns; Survival.** The terms and provisions of this Lease, and the respective rights and obligations hereunder of the Lessor and the Lessee, shall be binding upon their respective permitted successors, legal representatives and assigns, and inure to the benefit of their respective successors and permitted assigns.

**SECTION 21.2. Quiet Enjoyment.** The Lessor covenants that it will not and it will not cause or permit anyone claiming by or through Lessor to interfere in the Lessee's or any of its sublessees' quiet enjoyment of the Property hereunder during the Lease Term, so long as no Lease Event of Default has occurred and is continuing.

**SECTION 21.3. Notices.** Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be in writing by United States mail, by nationally recognized courier service or by hand and any such notice shall become effective when received or delivery thereof as refused, shall be directed to the Address of such Person and, if to the Lessor, shall not be effective unless given to the Asset Manager at its Address. From time to time any party may designate a new Address for purposes of notice hereunder by notice to each of the other parties hereto.

**SECTION 21.4. Severability.** Any provision of this Lease that shall be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction, and Lessee shall remain liable to perform its obligations hereunder except to the extent of such unenforceability.

**SECTION 21.5. Amendment; Complete Agreements.** Neither this Lease nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing signed by the Lessee and the Lessor and consented to by the Lender. This Lease, together with the other Operative Documents, is intended by the parties as a final expression of their lease agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the parties having been incorporated herein and therein. No course of prior dealings between the parties or their officers, employees, agents or Affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of this Lease or any other Operative Document. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement between the parties or their Affiliates shall not be relevant or admissible to determine the meaning of any of the terms of this Lease or any other Operative Document. No representations, undertakings, or agreements have been made or relied upon in the making of this Lease other than those specifically set forth in the Operative Documents.

**SECTION 21.6. Headings.** The Table of Contents and headings of the various Articles and Sections of this Lease are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

**SECTION 21.7. Counterparts.** This Lease may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

**SECTION 21.8. Governing Law; Jurisdiction; Venue; WAIVER OF JURY TRIAL.** (a) This Lease shall be governed by and construed in accordance with the internal laws (and not the conflict laws) of the State in which the Property is located ("**Local Law**").

(b) **Jurisdiction.** Any action or proceeding against any of the parties hereto relating in any way to this Lease or any other Operative Document may be brought and enforced in the courts of the state in which the Property is located, and the parties hereto irrevocably consent to the jurisdiction of each such court in respect of any such action or proceeding. Each of the parties hereto further irrevocably consents to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, return receipt requested, to the Address of such party as provided for notices under **Section 21.3** hereof. The foregoing shall not limit the right of any party to serve process in any other manner permitted by law or to bring any action or proceeding, or to obtain execution of any judgment, in any other jurisdiction.

(c) **Venue.** Each of the parties hereto hereby irrevocably waives any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising under or relating to this Lease or any other Operative Document in any court located in the state in which the Property is located, and hereby further irrevocably waives any claim that a court located in the state in which the Property is located is not a convenient forum for any such action or proceeding.

(d) **WAIVER OF JURY TRIAL.** LESSEE AND LESSOR HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH LESSEE AND LESSOR MAY BE PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS LEASE. IT IS HEREBY AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS LEASE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY LESSEE AND LESSOR, AND LESSEE AND LESSOR HEREBY ACKNOWLEDGE THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. LESSEE AND LESSOR FURTHER ACKNOWLEDGE THAT THEY HAVE BEEN REPRESENTED IN THE SIGNING OF THIS LEASE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF THEIR OWN FREE WILL, AND THAT THEY HAVE HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

**SECTION 21.9. Security Funds.** Any amounts otherwise payable to Lessee under this Lease or any other Operative Document but which shall be paid to or retained by Lessor pursuant to the terms hereof as a result of any Lease Default or Lease Event of Default shall be paid over to and held by the Lessor, as security for the obligations of Lessee under this Lease and the other Operative Documents and Lessee hereby grants to Lessor a security interest in all such amounts from time to time held by Lessor or Lender, as the case may be. At such time as there shall not be continuing any such Lease Default or Lease Event of Default, such amounts, net of any amounts theretofore applied to Lessee's obligations hereunder or under any other Operative Document, shall be paid to Lessee. Any such amounts which are held by the Lessor (as the case may be) pending payment to Lessee shall, until paid to Lessee as provided herein or until applied against Lessee's obligations hereunder or under any other Operative Document in connection with any exercise of remedies hereunder, be invested in Permitted Investments by the Lessor as directed from time to time by Lessor, in each case for the benefit and at the risk and expense of the Lessee.

**SECTION 21.10. Discharge of Lessee's Obligations by its Affiliates.** The Lessor agrees that performance of any of the Lessee's obligations hereunder by one or more of its Affiliates or one or more sublessees of the Property or any part thereof shall constitute performance by the Lessee of such obligations to the same extent and with the same effect hereunder as if such obligations were performed by the Lessee.

**SECTION 21.11. Estoppel Certificates.** Each party hereto agrees that at any time and from time to time during the Lease Term, it will promptly, but in no event later than twenty (20) days after request by the other party hereto (or, in the case of a Lessee estoppel certificate, by the Lender), execute, acknowledge and deliver to such other party or to any prospective purchaser (if such prospective purchaser has signed a commitment or letter of intent to purchase the Lessor's Interest in the Property), assignee or Lender or third party designated by such other party, a certificate stating (a) that this Lease is unmodified and in force and effect (or if there have been modifications, that this Lease is in force and effect as modified, and identifying the modification agreements); (b) the date to which Basic Rent has been paid; (c) whether or not there is any existing default by the Lessee in the payment of Basic Rent or any other sum of money hereunder, and whether or not there is any other existing default by either party with respect to which a notice of default has been served, and, if there is any such default, specifying the nature and extent thereof; (d) whether or not, to the knowledge of the signer, there are any setoffs, defenses or counterclaims against enforcement of the obligations to be performed hereunder existing in favor of the party executing such certificate and (e) other items that may be reasonably requested; provided that no such certificate may be requested unless the requesting party has a good faith reason for such request.

**SECTION 21.12. Granting of Easements.** (a) If no Lease Event of Default shall have occurred and be continuing (other than any Lease Event of Default which will be cured by the action which Lessee requests pursuant to this Section 21.12), the Lessor shall (within

fifteen (15) days after their receipt of (x) the written request of the Lessee, and (y) the materials requested by the party in question pursuant to subsection (c) below), subject to the requirements of subsection (b) below, join in any (i) grant of easements, licenses, rights of way, party wall rights and other rights in the nature of easements, with or without consideration, (ii) release of easements, licenses, rights of way, party wall rights or other rights in the nature of easements which are for the benefit of the Property or any portion thereof, with or without consideration, (iii) dedication or transfer of portions of the Land, not improved with a building, for road, highway or other public purposes, with or without consideration, (iv) execution of petitions to have the Land, or any portion thereof annexed to any municipal corporation or utility district, (v) execution of agreements for the use and maintenance of common areas, for reciprocal rights of parking, ingress and egress and amendments to any covenants and restrictions affecting the Property or any portion thereof, with or without consideration, (vi) request to any governmental authority for platting or subdivision or replatting or resubdivision approval with respect to the Land or any portion thereof or any parcel of land of which the Land or any portion thereof forms a part or a request for any variance from zoning or other governmental requirements, with or without consideration, (vii) creation of a governmental special benefit district for public improvements and payments of special assessments in connection therewith, in lump sum or installments (without any installments payable after expiration of this Lease), and (viii) execution and delivery to such Person of any instrument appropriate to confirm or effect such grant, release, dedication, transfer, request or such other matter, document or proceeding (to the extent of their respective interests in the Property).

(b) The Lessor's obligations, pursuant to subsection (a) above shall be subject to the requirements that:

(i) any action taken pursuant to subsection (a) (an "Action") shall be at the sole cost and expense of the Lessee, and, whether or not any proposed Action is consummated, the Lessee shall pay all reasonable out-of-pocket costs of the Lessor in connection therewith (including, without limitation, the reasonable fees of attorneys, architects, engineers, planners, appraisers and other professionals retained by the Lessor in connection with any proposed Action);

(ii) the requested Action will not adversely affect the lien of the Mortgage or the effectiveness thereof, will not interfere with and is not detrimental to the continued use and operation of the Property and will not cause the Property or any portion thereof to fail to comply in all material respects with the provisions of the Lease or any other Operative Documents and all Applicable Laws and Regulations and applicable Permitted Liens (including, without limitation, all applicable zoning, planning, building, and subdivision ordinances, all applicable setback and parking requirements, all applicable restrictive covenants and all applicable architectural approval requirements);

(iii) all governmental consents or approvals required prior to the requested Action shall have been applied for or obtained, and all filings required prior to the requested Action shall have been made;

(iv) no such Action shall result in any material down-zoning of the Land or any portion thereof or a material reduction in the maximum density or development rights available to the Land under all Applicable Laws and Regulation;

(v) all consideration received in connection with any Action (net of all expenses paid by the Lessee pursuant to clause (i) above and all proceeds necessary for the restoration of the Property so that it may be used in substantially the manner in which it was used prior to the Action, which restoration costs may include, without limitation, costs of acquisition of parking rights or other easements necessary for such use) shall be paid to the Lessee and any portion thereof (to the extent received by the Lessee) which is allocable to the interests of the Lessor shall be paid by the Lessee over to such party as its interest may appear promptly following receipt thereof;

(vi) all documentation executed in connection with any Action shall be reasonably satisfactory in form and substance to the Lessor;

(vii) the Lessor shall have received the items, if any, requested pursuant to subsection (c) below;

(viii) the Lease and Lessee's obligations thereunder shall continue in full force and effect, without abatement, suspension, deferment, diminution, reduction, counterclaim, setoff, defense or deduction notwithstanding the taking of any requested Action or the refusal of the Lessor to take any requested Action;

(ix) to the extent any agreement entered into in connection with such Action provides any party a right to a Lien on any portion of the Property, such Agreement shall expressly provide that such Lien shall be subject and subordinate to any mortgage on the Property, including, without limitation, the Mortgage; and

(x) no such requested Action shall reduce the value, utility or useful life of the Property or Lessor's Interest therein other than to a de minimis extent (as reasonably determined by the Lessor).

(c) In connection with any request by the Lessee pursuant to this Section 21.12, Lessee shall deliver to the Lessor and the Lender (each in form and substance reasonably satisfactory to the Lessor and the Lender), a written report that describes (1) the nature of the Action and (2) the form and amount of consideration to be paid or received, copies of all governmental consents or approvals required in connection with such Action, copies of all

governmental filings required in connection with such Action and other reasonable evidence (including an Officer's Certificate certifying as to the satisfaction of the requirements of subsection (b) above) of the satisfaction of the requirements of subsection (b) above with respect to such Action.

**SECTION 21.13. Lessor Bankruptcy.** The parties hereto agree that (a) the benefits to the Lessee of Section 365(h) of the Bankruptcy Code shall include any Renewal Terms and the right to acquire the Lessor's Interest in the Property pursuant to **Section 19.1** even if the Lessor becomes subject to the Bankruptcy Code prior to the commencement of any Renewal Term or exercise of such buy-out right, as the case may be, and (b) the benefits to the Lessee of Section 365(i) of the Bankruptcy Code shall include all rights of the Lessee to acquire the Lessor's Interest in the Property, including, without limitation, Lessee's rights under **Section 19.1** hereof even if the Lessor becomes subject to the Bankruptcy Code prior to the exercise of such rights by the Lessee.

**SECTION 21.14. No Joint Venture.** There is no intention to create a joint venture or partnership relation between the Lessor and the Lessee and any such implication is hereby expressly disclaimed.

**SECTION 21.15. No Accord and Satisfaction.** The acceptance by the Lessor of any sums from the Lessee (whether as Basic Rent or otherwise) in amounts which are less than the amounts due and payable by the Lessee hereunder is not intended, nor shall be construed, to constitute an accord and satisfaction of any dispute between the Lessor and the Lessee regarding sums due and payable by the Lessee hereunder, unless the Lessor specifically deems it as such in writing.

**SECTION 21.16. No Merger.** In no event shall the leasehold interests, estates or rights of the Lessee hereunder, or of the holder of all or any part of the Note secured by a security interest in this Lease, merge with any interests, estates or rights of the Lessor in or to the Property, it being understood that such leasehold interests, estates and rights of the Lessee hereunder, and of the holder of all or any part of the Note secured by a security interest in this Lease, shall be deemed to be separate and distinct from the Lessor's interests, estates and rights in or to the Property, notwithstanding that any such interests, estates or rights shall at any time or times be held by or vested in the same person, corporation or other entity.

**SECTION 21.17. Further Assurances.** The Lessee, at its own cost and expense, will cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents and assurances as the Lessor reasonably may request from time to time in order to carry out more effectively the intent and purposes of this Lease and the other Operative Documents and the Overall Transaction. The Lessee, at its own cost and expense, will cause all financing statements, fixture filings and other documents to be recorded or filed at such places and times in such manner, and will take all such other actions or cause such actions to be taken, as

may be necessary or as may be reasonably requested by the Lessor in order to establish, preserve and protect (a) the title of the Lessor to the Property, (b) the Lessor's rights under this Lease and the other Operative Documents and (c) the Lender's interest in the Mortgage including the preservation of the interest granted by the Mortgage.

**SECTION 21.18. Investigation by Governmental Authorities.** The Lessee shall deliver to the Lessor promptly upon the Lessee's becoming aware of or receiving notice of the intent by a Governmental Authority to (x) take an action which would constitute a Condemnation at the Property, (y) investigate the Property for a material violation of any Applicable Laws and Regulations relating to the Property, including any Environmental Law, under which liability may be imposed upon the Lessor or (z) investigate the Property (other than routine fire, life-safety and similar inspections) for any violation of Applicable Laws and Regulations under which criminal liability may be imposed upon the Lessor.

**SECTION 21.19. Memorandum of Lease.** Concurrently with execution and delivery hereof, the parties shall execute and deliver a short form memorandum of lease in substantially the form of **Exhibit A** attached hereto and made a part hereof to be recorded (or if required, the Lease shall be so recorded) in the recorder's office of the county in which the Property is situated.

**SECTION 21.20. Interest Conveyed.** This Lease is an agreement of lease and the Lessor does not convey to the Lessee any right, title or interest in or to the Property except as a lessee.

**SECTION 21.21. Enforcement of Warranties, et al.** (a) Unless a Lease Event of Default shall have occurred and be continuing, the Lessor authorizes the Lessee (directly or through agents), at the Lessee's expense, to assert, during the Lease Term, all of the Lessor's rights (if any) under any applicable warranty and any other claim that the Lessee or the Lessor may have under the warranties assigned to Lessor in connection with the Overall Transaction, and the Lessor agrees to cooperate, at the Lessee's expense, with the Lessee and its agents in asserting such rights. Any amount recovered by the Lessee under any such warranties assigned to Lessor shall be paid to the Lessee and applied first to the repair, restoration or replacement of the portion of the Improvements by virtue of which such amount was recovered (to the level of quality required by **Section 8.1** of this Lease) and the balance, if any, shall be retained by the Lessee, unless a Lease Event of Default shall be continuing, in which case **Section 13.4** of this Lease shall apply. Upon any transfer by the Lessor to the Lessee of its interest in the Property, the Lessor shall assign all of the rights and warranties held by it relating to the Property to the Lessee.

(b) Notwithstanding the foregoing provisions of this **Section 21.21**, so long as a Lease Event of Default or Lease Default shall have occurred and be continuing, any amount that would otherwise be retained by the Lessee pursuant to this **Section 21.21** shall be paid to the

Lessor as security for the obligations of the Lessee under the Lease and held pursuant to **Section 21.9** hereof.

**SECTION 21.22. Indemnification. (a) Duty to Indemnify.** The Lessee agrees to pay, and to protect, defend (with counsel reasonably acceptable to the relevant Indemnified Party), indemnify and hold harmless the Indemnified Parties from and against any and all liabilities, losses, damages, costs, penalties, fees, expenses (including, without limitation, all reasonable attorneys fees and expenses), causes of action, suits, claims, demands or judgments of any nature (herein collectively called "**Damages**") whatsoever arising from (i) any use, non-use, occupancy, condition, design, construction, maintenance, repair or rebuilding of the Property, (ii) any injury to, or the death of, any person or any loss of or damage to property on the Property or upon adjoining sidewalks, streets, adjacent property, adjacent parking areas or right of ways, in any manner growing out of or connected with the use, non-use, condition or occupation of the Property, adjoining sidewalks, streets, adjacent property, adjacent parking areas or right of ways, (iii) any violation by the Lessee of any provision of this Lease or any other contract or agreement to which the Lessee is a party or which pertains to the Property or any part thereof or the ownership, occupancy or use thereof, (iv) any violation by the Lessee of any Applicable Laws and Regulations, (v) any material inaccuracy or misstatement in any representation or warranty of the Lessee set forth in this Lease or in any document, notice, certificate, demand or request delivered to any Indemnified Party by the Lessee pursuant to or in connection with this Lease, (vi) the violation of any applicable federal, state or local environmental law with respect to the Property or the Lessee's or any other person's or entity's prior ownership of the Property or (vii) the "release" or "threatened release" of or failure to remove "hazardous substances" (as defined in CERCLA) and Release of Hazardous Materials at or from the Property or any property contiguous therewith at or any portion or portions thereof, including any release, threatened release or Release prior to or during the Lease Term whether or not arising out of or in any manner connected with occupancy of the Property during the Lease Term, except, in each case, to the extent such Damages suffered by an Indemnified Party (x) are caused by the gross negligence or willful misconduct of such Indemnified Party or (y) arise with respect to Hazardous Materials first placed upon the Property after the expiration or sooner termination of this Lease and surrender of possession of the Property. If an Indemnified Party shall be made a party to any such litigation commenced against the Lessee, and if the Lessee, at its expense, shall fail to provide such Indemnified Party with counsel (upon such Indemnified Party's request) reasonably approved by such Indemnified Party, the Lessee shall pay all reasonable costs and attorneys' fees and expenses incurred or paid by such Indemnified Party in connection with such litigation, it being agreed that the Lessee may provide one counsel for all such Indemnified Parties unless the Lessee or such Indemnified Parties have been advised by such counsel that representation of such Indemnified Parties by the same counsel would be inappropriate under applicable standards of professional conduct due to actual or potential differing interest between the Indemnified Parties, in which case the Lessee shall provide such additional counsel to such Indemnified Parties, reasonably approved by such Indemnified Parties, as may be necessary to avoid actual or potential conflicts of interest. To the maximum extent permitted by law, the Lessee hereby waives any and

all right of recovery which the Lessee or anyone claiming by, through or under the Lessee may have against any Indemnified Party for any loss, damage or liability arising from or in connection with the Lessee's leasing of the Property notwithstanding that such loss, damage or liability may result from the negligence or fault of such Indemnified Party; it being understood, however, that neither the Lessee nor anyone claiming by, through or under the Lessee is hereby waiving any right of recovery against any Indemnified Party for any loss, damage or liability to the extent such loss, damage or liability arises from or is a result of the gross negligence or willful misconduct of such Indemnified Party. The Lessee's obligations and liabilities under this Section 21.22 shall survive expiration or earlier termination of this Lease.

**SECTION 21.23. Radon Gas.** Pursuant to Section 404.056(7), Florida Statutes, the following notification is provided:

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in the State of Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

**SECTION 21.24. True Lease.** For purposes of determining their respective rights and remedies under Applicable Laws and Regulations, the Lessor and the Lessee believe and intend that this Lease constitutes a true lease, not a financing arrangement, enforceable in accordance with its express terms and that the Lessor is the landlord and owner of the Lessor's Interest in the Property and not a Lender.

**SECTION 21.25. Time of the Essence.** The Lessee acknowledges and agrees that time shall be of the essence with respect to the payment and performance of the Lessee's obligations under this Lease.

**SECTION 21.26. Restrictions on Transfers.** Provided that The Huntington National Bank is Lessee hereunder and occupies a substantial portion of the Property, the Lessor's right to Transfer the Property (other than a transfer that is the grant of any Mortgage or any conveyance in any proceeding to foreclose a lien, mortgage or pledge by judicial or non-judicial proceeding as a result of an event of default by Lessor thereunder or any Transfer in lieu thereof) shall be subject to the satisfaction of the following terms and conditions:

- (a) The transferee shall not be a Competitor of Lessee or an Affiliate of a Competitor of Lessee.

(b) (i) If the Lessor shall receive a bona fide offer from a third party (other than an Affiliate of the Lessor) with respect to a Transfer of the Property at any time after the third anniversary of the date hereof and prior to the expiration or sooner termination of this Lease, that the Lessor is willing to accept (an **Offer**"), the Lessor shall deliver to the Lessee a notice (an **Offer Notice**) of the proposed Transfer, setting forth the identity of the proposed transferee, the interest proposed to be transferred, the purchase price and all other material terms of the proposed transfer. The Lessee shall have the right (the **Right of First Refusal**) for a period of thirty (30) days after the giving of the Offer Notice, to purchase the interest specified in the Offer Notice at the purchase price and upon the terms set forth therein. If the Lessee does not exercise such right, the Lessor may thereafter for a period of 180 days sell to the transferee specified in the Offer Notice or an Affiliate of such transferee the interest in the Property in question on terms no less favorable in any material respect to the Lessor than the terms set forth in the Offer Notice. A purchase price which is 95% or greater than the purchase price stipulated in the Offer Notice shall be deemed not less favorable in a material respect. No other transfer shall be effected without sending the Lessee a revised Offer Notice, in which event, the Lessee shall again be entitled to the right of first refusal set forth herein. The Lessee's failure to exercise its Right of First Refusal in accordance with this subparagraph with respect to any particular Offer Notice shall not affect the Lessee's rights with respect to any subsequent Offer Notice. If the Lessee exercises its Right of First Refusal, Lessee shall deliver an irrevocable notice of such exercise to the Lessor within the 30-day time period provided above. Such exercise notice shall specify a closing date not less than 15 nor more than 30 days after the delivery thereof, and on the date so specified, at the Lessee's principal office, the Lessor shall sell, assign, transfer and convey, without recourse or warranty, except as to the absence of liens resulting from the acts or omissions of the Lessor, the applicable interests in the Property, at the price and upon the terms set forth in the Offer Notice. If the Lessee does not exercise its Right of First Refusal in accordance with the terms of this subparagraph, and the Lessor Transfers the applicable interest in the Property in accordance with the terms hereof, the Lessee's right to purchase such interest shall be deemed void and of no further effect, but the Lessee shall continue to enjoy its Right of First Refusal with respect to subsequent Transfers of any other interests in the Property.

(ii) For purposes hereof, (A) **"Transfer"** shall mean any sale, grant, conveyance, assignment or other transfer, whether voluntary or involuntary, by operation of law or otherwise, of the Property or any interest therein or any direct or indirect sale, grant, conveyance, assignment or other transfer of any beneficial ownership interest in Lessor or any of the constituent members, partners or shareholders of Lessor resulting in a Change of Control and (B) **"Change of Control"** shall mean with respect to any Person (1) the sale or transfer by Persons who are the direct beneficial owners of such Person of more than forty-nine and nine-tenths percent (49.9%) of the direct or indirect right to distributions from such Person in the aggregate to Persons who were not direct or indirect beneficial owners as of such date or (2) the sale or transfer by such direct beneficial

owners of such Person of more than forty-nine and nine-tenths percent (49.9%) of the direct or indirect voting rights in such Person to Persons who were not direct or indirect beneficial owners as of such date.

(c) Upon the written request of the Lessor, the Lessee shall promptly, but in no event later than 10 days after request by Lessor, provide a certificate stating whether or not (a) it has waived its Right of First Refusal and (b) it considers a proposed transferee to be a Competitor.

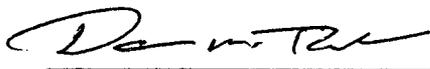
[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have each caused this Lease Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

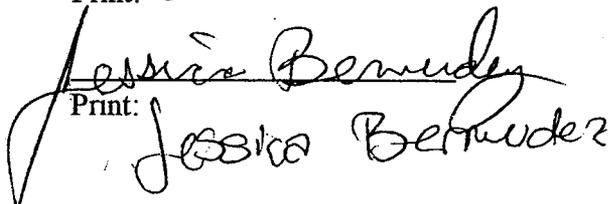
LESSOR:

LEESBURG BNK INVESTORS, DBT

WITNESS



Print: Darren Reschke



Print: Jessica Bermudez

By: 

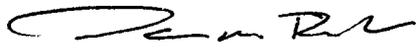
Gil Besing

Not in his individual capacity, but solely as  
Administrative Trustee

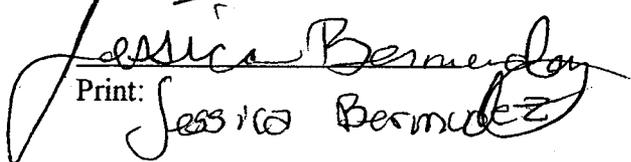
LESSEE:

THE HUNTINGTON NATIONAL BANK

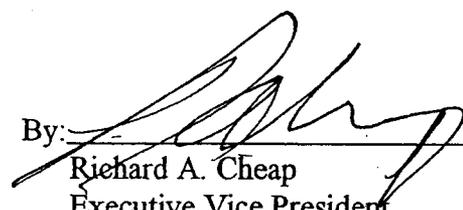
WITNESS



Print: Darren Reschke



Print: Jessica Bermudez

By: 

Richard A. Cheap

Executive Vice President

SCHEDULE 3

PARCEL 1

That part of Lot 9 according to the Plat of N.C. LEE ESTATE, recorded in Plat Book 1, page 75, Public Records of Lake County, Florida, lying Southwesterly of North Boulevard, in the City of Leesburg, and being part of Government Lot 2, of Section 23, Township 19 South, Range 24 East; also described as: Beginning at the Southwest corner of Government Lot 2 of Section 23, Township 19 South, Range 24 East, run thence East along the South boundary line of said Government Lot 2 to the South and Westerly boundary line of North Boulevard, run thence Northwesterly along the South and Westerly right of way line of North Boulevard on an angle of North 37 degrees 14 minutes 30 seconds West to intersect the West boundary line of said Government Lot 2, thence South along the West boundary line of said Government Lot 2, to POINT OF BEGINNING, LESS right of way of U.S. Highway 441.

PARCEL 2

Begin at the Southeast corner of Government Lot 3, Section 23, Township 19 South, Range 24 East, run thence North 259.37 feet, more or less, on the East boundary line of said Government Lot 3 to the Southerly right of way of North Boulevard; run thence South 52 degrees 45 minutes 30 seconds West 400 feet; thence South 37 degrees 14 minutes 30 seconds East to the South boundary line of said Government Lot 3; run thence East along the Southern boundary line of said Government Lot 3 to POINT OF BEGINNING.

PARCEL 3

From the Southeast corner of Government Lot 3, Section 23, Township 19 South, Range 24 East, run North along the East line of said Government Lot 3, to the Southwesterly right of way line of U.S. Highway No. 441 (North Boulevard in the City of Leesburg, Florida), for a POINT OF BEGINNING; run thence North 37 degrees 14 minutes 30 seconds West, along the Southwesterly right of way line of said U.S. Highway No. 441, a distance of 320 feet; run thence South 52 degrees 45 minutes 30 seconds West, a distance of 400 feet; run thence South 37 degrees 14 minutes 30 seconds East, parallel to said U.S. Highway No. 441, a distance of 320 feet; run thence North 52 degrees 45 minutes 30 seconds East, a distance of 400 feet to POINT OF BEGINNING, LESS right of way of U.S. Highway 441 and State (County) Road 25-A, also known as Citizens Boulevard.

PARCEL 4

That part of Government Lot 3 of Section 23, Township 19 South, Range 24 East, in the City of Leesburg, Lake County, Florida, bounded and described as follows:

From the Southwest corner of Government Lot 3, Section 23, Township 19 South, Range 24 East, run North 0 degrees 24 minutes 30 seconds East along the West line of said Government Lot 3, a distance of 800.0 feet to the South line of Shelfer Street 233 feet to the POINT OF BEGINNING of this description. From said POINT OF BEGINNING, run thence South 89 degrees 54 minutes 20 seconds East along said South line of Shelfer Street 547.39 feet; thence North 52 degrees 45 minutes 30 seconds East along the Southeasterly line of Shelfer Street 102.43 feet to the Southwesterly right of way of U.S. Highway #441 (North Boulevard in City of Leesburg); thence South 37 degrees 14 minutes 30 seconds East along the Southwesterly right of way of U.S. Highway #441 to a point that is 320 feet North 37 degrees 14 minutes 30 seconds West (along said right of way line) from the East line of said Government Lot 3; thence South 52 degrees 45 minutes 30 seconds West 400 feet; thence North 37 degrees 14 minutes 30 seconds West, parallel to and 400 feet from the Southwesterly line of U.S. Highway #441, to a point that is 150 feet South of the South right of way line of Shelfer Street when measured at right angles thereto; run thence North 89 degrees 54 minutes 20 seconds West, parallel to said Shelfer Street to a point that is South 0 degrees 24 minutes 30 seconds West of the POINT OF BEGINNING; run thence North 0 degrees 24 minutes 30 seconds East 150 feet to the POINT OF BEGINNING; LESS the right of way of Citizens Boulevard (State Road No. 25-A), U.S. Highway 441, and LESS the West 200 feet of the North 150 feet.

## APPENDIX A

In each Operative Document, unless the context otherwise requires:

1. any term defined below by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect;
2. words importing the singular include the plural and vice versa;
3. words importing a gender include any gender;
4. a reference to a part, clause, party, section, article, exhibit or Schedule is a reference to a part and clause of, and a party, section, article, exhibit and Schedule to, such Operative Document;
5. a reference to any statute, regulation, proclamation, ordinance or law includes all statutes, regulations, proclamations, ordinances or laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations and ordinances issued or otherwise applicable under that statute;
6. a reference to a document includes an amendment or supplement to, or replacement or novation of, that document; and
7. a reference to a party to a document includes that party's successors and permitted assigns; and
8. the word "including" shall mean "including, without limitation".

**"Action"** has the meaning specified in Section 21.12 of the Lease.

**"Actual Knowledge"** shall mean actual knowledge of, including any written notices received by, the Director of Real Estate and Facility Services of the Lessee (or if such position is no longer in existence, the comparable position), or such other employee of the Lessee to whom the manager of the Lessee's business at the Property may report or any other management-level (as opposed to property-level) employee generally charged with knowledge of the relevant item or issue in the normal course of the execution of their duties and responsibilities.

**"Address"** shall mean:

- (i) with respect to the Lessor: c/o Cardinal Capital Partners, Inc., 8411 Preston Road, Dallas, Texas 75235;

(ii) with respect to the Lessee: 41 South High Street, Columbus, Ohio 43215.

Or such other address as any such Person may from time to time specify in writing to each of the parties specified in clauses (i) - (ii) above.

**"Affiliate"** of any Person shall mean any other Person directly or indirectly controlling, controlled by or under common control with, such Person. For purposes of this definition, the term **"control"** (including the correlative meanings of the terms **"controlling"**, **"controlled by"** and **"under common control with"**), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise, **provided** (but without limiting the foregoing) that no pledge of voting securities of any Person without the current right to exercise voting rights with respect thereto shall by itself be deemed to constitute control over such Person.

**"Alteration Budget"** shall have the meaning specified in Section 8.2(c) of the Lease.

**"Alterations"** shall mean alterations, improvements, replacement parts, modifications and additions to the Improvements, other than in respect of any Retained Property.

**"Applicable Laws and Regulations"** shall mean all existing and future applicable laws (including Environmental Laws (and the Americans with Disabilities Act, as amended, or any local equivalent)), rules, regulations, statutes, treaties, codes, ordinances, permits, certificates, orders and licenses of any Governmental Authorities, and applicable judgments, decrees, injunctions, writs, orders, requirements or like action of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction (including, without limitation, those pertaining to health, safety or the environment and those pertaining to the construction, use or occupancy of any "property" and zoning, subdivision, building and land use laws) and any restrictive covenant or deed restriction or easement of record affecting the Property.

**"Applicable State"** shall mean the State in the United States of America in which the Property is located.

**"Appraisal Procedure"** shall mean the following procedure for determining any one or more of the Fair Market Sales Value of the Property, the Fair Market Rental Value of the Property or any other amount, value or period which may, pursuant to any provision of any Operative Document after the Lessor and the Lessee (or any other parties which are required by the terms of the Operative Documents to use the Appraisal Procedure, in which case such party shall be substituted for the Lessor or Lessee, as the case may be) have failed to reach agreement,

be determined by the Appraisal Procedure: two qualified MAIs, one chosen by the Lessee and one chosen by the Lessor, shall mutually agree thereupon, but if either party shall fail to choose an MAI within 30 days after notice from the other party of the selection of its MAI, then the appraisal by such appointed MAI shall be binding on the Lessee and the Lessor. If the two MAIs cannot agree within 30 days after both shall have been appointed, then a third MAI shall be selected by the two MAIs or, failing agreement as to such third MAI within 30 days after both shall have been appointed, by the American Arbitration Association. The decisions of the three MAIs shall be given within 30 days of the appointment of the third MAI and the decision of the MAI most different from the average of the other two shall be discarded and such average shall be binding on the Lessor and the Lessee; provided that if the highest appraisal and the lowest appraisal are equidistant in value from the third appraisal, the third appraisal shall be binding on the Lessor and the Lessee. The fees and expenses of the MAI appointed by the Lessee shall be paid by the Lessee; the fees and expenses of the MAI appointed by the Lessor shall be paid by the Lessor (such fees and expenses not being indemnifiable by the Lessee); and the fees and expenses of the third MAI shall be divided equally between the Lessee and the Lessor, except that all fees and expenses of all the MAIs shall be paid by the Lessee in the case of an appraisal or determination under Article XVI of the Lease.

**“Appraiser”** shall mean a firm regularly engaged in rendering opinions as to fair market sales and fair market rental value of property of the type demised under the Lease and acceptable to the Lessor and the Lessee.

**“Asset Management Agreement”** shall mean the Asset Management Agreement, dated as of the Closing Date, between the Lessor and the Asset Manager, as the same may be amended or supplemented from time to time.

**“Asset Manager”** shall mean Cardinal Asset Management, Inc., and its successors and permitted assigns under the Asset Management Agreement.

**“Assignee”** means any Lender that acquires title to the Property, whether by foreclosure of a Mortgage or pursuant to a deed in lieu thereof or otherwise, any successor to such Lender, and any purchaser of the Property at a foreclosure sale in respect of a Mortgage (or transferee pursuant to a deed in lieu of such foreclosure).

**“Bankruptcy Code”** shall mean the Bankruptcy Reform Act of 1978, as amended.

**“Basic Rent”** shall mean, for the Basic Term, the rent payable pursuant to Section 3.1 of the Lease and, for any Renewal Term, the rent payable pursuant to Article IV of the Lease.

**“Basic Term”** shall mean (i) the period commencing on the Basic Term Commencement Date and ending on December 31, 2020 or (ii) such shorter period as may result from earlier termination of the Lease as provided therein.

**“Basic Term Commencement Date”** shall mean the Closing Date.

**“Board of Directors”** with respect to a corporation, means either the Board of Directors or any duly authorized committee of that Board which pursuant to the by-laws of such corporation has the same authority as that Board as to the matter at issue.

**“Business Day”** shall mean any day other than a Saturday, Sunday or other day on which banks are authorized to be closed in New York, New York, or Columbus, Ohio.

**“Call Reports”** means the Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices required to be filed with the Fed.

**“Casualty”** shall mean an event of damage or casualty relating to all or part of a "Property" which does not constitute an Event of Loss.

**“CERCLA”** has the meaning specified in the definition of "Environmental Laws".

**“Certificateholders”** means from time to time holders of the Pass-Through Certificates issued under the Legg Mason Mortgage Capital Corporation Lease-Backed Commercial Mortgage Pass-Through Trust, Series 1998-CTL-6.

**“Claims”** shall mean liabilities, obligations, damages, losses, demands, penalties, fines, claims, actions, suits, judgments, administrative or judicial orders, settlements, utility charges, costs, expenses and disbursements (including, without limitation, legal fees and expenses and costs of investigation) of any kind and nature whatsoever.

**“Closing”** means the closing of the Overall Transaction on the Closing Date.

**“Closing Date”** shall mean December 16, 1998.

**“Code”** shall mean the Internal Revenue Code of 1986, as amended and in effect from time to time.

**“Competitor”** shall mean any Person whose banking business (including that of any of its Affiliates) is a competitor with the banking business of Lessee (except for (i) any person whose competition with the Lessee is, in the Lessee’s reasonable judgment, immaterial and (ii) if the Lender acquires title to the Property, any institutional investors).

**“Condemnation”** shall mean any condemnation, confiscation, seizure, requisition or other taking or sale of the use, occupancy or title to a "Property" or any part thereof in, by or on account of any actual or threatened eminent domain proceeding or other action by any Governmental Authority or other Person under the power of eminent domain or otherwise or any transfer to the Governmental Authority in lieu of or in anticipation thereof, which in any case does not constitute an Event of Taking. A Condemnation shall be deemed to have “occurred” on the earliest of the dates that use, occupancy or title is taken.

**“Depository”** shall have the meaning specified in Section 13.2 of the Lease.

**“Discount Rate”** shall mean an interest rate equal to 7.24% per annum.

**“Environmental Approvals”** means all permits, licenses, waivers, exemptions, consents, variances, franchises, orders, authorizations, certificates and approvals of governmental authorities relating to or required by Environmental Laws.

**“Environmental Claims”** means any notice, claim, administrative, regulatory or judicial action, suit, lien, order, consent decree or judgment, demand alleging or asserting liability or responsibility for investigatory costs, legal or other fees, costs of legal proceedings, cleanup costs, remediation costs, mitigative action, corrective action, removal costs, response costs, damages to natural resources, personal injuries, contribution, indemnification, cost recovery, compensation, injunctive relief, losses, fines, or penalties (whether civil or criminal) arising out of, based on or resulting from (i) the presence or Release of any Hazardous Material at any Property or (ii) any Environmental Law or any alleged injury or threat of injury to health, safety or the environment.

**“Environmental Laws”** shall mean and include the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-6987, as amended by the Hazardous and Solid Waste Amendments of 1984 (“RCRA”), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601-9657, (“CERCLA”), the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 1801-1812, the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2671, the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 et seq., and all similar or other present and future international, foreign, federal, state, local and other governmental environmental laws, ordinances, rules, orders, statutes, decrees, judgments, injunctions, codes, regulations and requirements relating to the environment, conservation, wildlife, pollution, waste management, human health and safety, natural resources or the regulation or control of or imposing liability or standards of conduct concerning Hazardous Materials or the clean-up or other investigation or remediation of the Property, as any of the foregoing may have been from time to time amended, supplemented or supplanted.

**“Event of Loss”** shall mean (i) a casualty or other damage affecting the Property the cost of restoring which is at least fifty percent (50%) of the total replacement cost of the Property and that renders the Property (in the good faith opinion of the Lessee considering the nature of damage and the estimated period of restoration) unfit for normal use in the Lessee’s business or (ii) an Event of Taking.

**“Event of Taking”** shall mean any Condemnation (other than a requisition of use) or any requisition of use which is scheduled to last beyond the end of the Lease Term, resulting in the loss of use or possession of a material portion of the Property (which, for purposes hereof, shall mean (i) a portion constituting fifteen percent (15%) or more of the area of the Land or Improvements or (ii) a portion necessary to provide adequate access, to comply with Applicable Laws and Regulations or to operate the Property for its intended use) and which shall, even after restoration, render the Property either unsuitable or uneconomic for continued use and occupancy in Lessee’s business, as determined in good faith by the Lessee, such determination to be made promptly after the occurrence of such event and to be evidenced by an Officer’s Certificate of Lessee delivered to the Lessor.

**“Existing Subleases”** shall mean those subleases listed on Schedule 4 to the Lease.

**“Fair Market Rental Value”** with respect to the Property shall mean the fair market rental value that would be obtained in an arm’s-length transaction between an informed and willing lessee and an informed and willing lessor, in either case under no compulsion to lease, and neither of which is related to the Lessor or the Lessee, for the lease of the Property. Such fair market rental value shall be calculated as the value for the use of the Property to be leased in place at the Land, assuming, in the determination of such fair market rental value, that the Property is in the condition and repair required to be maintained by the terms of the Lease .

**“Fair Market Sales Value”** with respect to the Property shall mean the fair market sales value that would be obtained in an arm’s-length transaction between an informed and willing buyer and an informed and willing seller, under no compulsion, respectively, to buy or sell, and neither of which is related to the Lessor or the Lessee, for the purchase of the Property taking into account the Lessee’s renewal rights under the Lease. Such fair market sales value (a) shall be calculated as the value of the use of the Property to be purchased in place at the Land, assuming, in the determination of such fair market sales value, that the Property is encumbered by the Lease and in the condition and repair required to be maintained by the terms of the Lease and (b) shall be such value as the Lessor and the Lessee may agree, provided that if the Lessor and the Lessee cannot agree on such fair market sales value, such value shall be determined by the Appraisal Procedure.

**“Fed”** has the meaning specified in Section 14.2 of the Lease.

**“Final Payment Date”** shall have the meaning specified in Section 16.1 of the Lease.

**“GAAP”** shall mean generally accepted accounting principles in the United States as in effect from time to time consistently applied.

**“Governmental Action”** shall mean all permits, authorizations, registrations, consents, approvals, waivers, exceptions, variances, orders, judgments, decrees, licenses, exemptions, publications, filings, notices to and declarations of or with or required by, any Governmental Authority, or required by any Applicable Laws and Regulations, and shall include, without limitation, all citings, environmental and operating permits and licenses that are required for the use, occupancy, zoning and operation of the Property.

**“Governmental Authority”** shall mean any foreign, federal, state, county, regional, municipal or other governmental or regulatory authority, agency, board, body, commission, instrumentality, court or quasi-governmental authority.

**“Hazardous Material”** shall mean collectively, (a) any petroleum (including crude oil or any fraction thereof), flammable explosive, radioactive material, radon gas, friable asbestos, urea formaldehyde foam insulation and polychlorinated biphenyls, (b) any hazardous waste, hazardous material, hazardous substance, toxic substance, contaminant or pollutant, as, including, without limitation, those defined or regulated as such under any Environmental Law, including, without limitation, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., or any similar state or local statute, and (c) any other chemical or other material, substance or waste which is now or hereafter prohibited, limited or regulated under any Environmental Law.

**“Imposition”** shall have the meaning specified in Section 8.7 of the Lease.

**“Improvements”** shall mean all buildings, structures, parking lots and other improvements now or hereafter located on the Land, including, without limitation, all Alterations to which title has vested in the Lessor pursuant to the Lease and the foundations and footings thereof and all fixtures, including, without limitation, all furnaces, boilers, machinery, engines, motors, compressors, elevators, fittings, pipings, connectives, conduits, ducts, partitions, equipment and apparatus of every kind and description now or hereafter affixed or attached to any such buildings, structures or improvements to the extent the same constitutes real property or fixture under applicable law.

**“Indemnified Party”** and **“Indemnified Parties”** means, individually and collectively, the Lessor, the Lender and the Certificateholders, and their respective officers, directors, trustees, shareholders, beneficial owners, members, partners, owners, agents and employees.

**“Inspecting Parties”** shall have the meaning specified in Section 14.1 of the Lease.

**“Insurance Requirements”** means all requirements of any policies of public liability, fire and other insurance required to be maintained by the Lessee pursuant to Article X of the Lease.

**“Investment Grade”** shall mean a rating of BBB or higher by S&P or BAA2 or higher by Moody's.

**“Land”** shall mean the parcels of land described in Schedule 4 to the Lease and all right, title and interest that the Lessor owns in and to such parcels of land, if any, lying in the bed of any street, road or avenue at the foot of, adjoining or below the foregoing tracts of land together with (i) all agreements, easements, rights of way or use, rights of ingress or egress, privileges, appurtenances, tenements, hereditaments and other rights and benefits now or hereafter belonging or pertaining to such parcels of land or the Improvements, including, without limitation, the use of any streets, ways, alleys, vaults or strips of land adjoining, abutting, adjacent or contiguous to the Land, (ii) all permits, licenses and rights, whether or not of record, appurtenant to such parcels of land and (iii) any awards made or to be made for damages to such parcels of land or the Improvements by reason of change of grade of any street or public way.

**“Lease”** shall mean that certain Lease Agreement dated as of December 16, 1998 by and between Lessor, as lessor, and Lessee, as lessee, as it may be supplemented and amended from time to time.

**“Lease Default”** shall mean any event, condition or failure which, with notice or lapse of time or both, would become a Lease Event of Default.

**“Lease Event of Default”** shall mean any event or condition designated as a “Lease Event of Default” in Article XV of the Lease.

**“Lease Periods”** shall mean the 264 consecutive monthly periods during the Basic Term, the first such period ending on the first Rent Payment Date after the Basic Term Commencement Date and each successive period ending on each successive Rent Payment Date.

**“Lease Term”** shall mean (i) the Basic Term and any Renewal Terms as to which the Lessee exercises a renewal option pursuant to Section 4.1 of the Lease or (ii) such shorter period as may result from earlier termination of the Lease as provided therein.

**“Lease Term Commencement Date”** shall mean the date the Lease is executed and delivered by the Lessor and the Lessee.

**“Lease Termination Date”** shall mean the last day of the Lease Term.

**“Lender”** means, collectively, LMRES, and its successors and assigns, including, without limitation, LM HBAN Mortgage Company, LLC, the Pass-Through Trust and the Certificateholders or such other Person or Persons identified to Lessee by a Lender as a Lender in writing, that, directly or indirectly, makes a loan to the Lessor secured by a Mortgage.

**“Lessee”** shall mean The Huntington National Bank, a national banking association, and its successors and permitted assigns.

**“Lessee’s Obligations”** shall mean (i) the prompt and complete payment when due of all amounts at any time owing by the Lessee to the Lessor or the Lender under the Operative Documents and (ii) the prompt and complete performance of all covenants and agreements of the Lessee contained in the Operative Documents.

**“Lessor”** shall mean the entity described as Lessor on Schedule 1 to the Lease and its successors and permitted assigns.

**“Lessor Default”** shall have the meaning specified in Section 12.6(d) of the Lease.

**“Lessor Liens”** shall mean Liens on or against the Property, the Lease or any payment of Rent (a) which result from any act of, or any claim against, the Lessor, unrelated to its interest in the Property or the Overall Transaction, or which result from any violation by the Lessor of any of the terms of the Operative Documents or (b) which result from Liens in favor of any taxing authority by reason of any Tax owed by the Lessor, the payment of which is not the obligation of the Lessee under the Operative Documents.

**“Lessor’s Interest”** shall mean the Lessor’s right, title and interest in and to the Land and the Improvements.

**“Lien”** shall mean any lien, mortgage, deed of trust, encumbrance, pledge, charge, lease, easement, servitude, exercise of rights, right of others, security interest or claim of any kind, including any agreement to give any of the foregoing or arising under any conditional sale or other title retention agreement and any federal, state or local lien imposed as a result of a violation of any Environmental Law.

**“LMRES”** means Legg Mason Real Estate Services, a Pennsylvania corporation.

**“Local Law”** shall have the meaning specified in Section 21.8 of the Lease.

**“Loss Proceeds”** shall have the meaning specified in Section 13.1 of the Lease.

**“MAI”** shall mean a certified member of the Appraisal Institute or successor organization, who shall have at least five year’s experience in appraising properties of the type demised hereunder in the same geographic region where the Property is located.

**“Material Adverse Effect”** shall mean a material adverse effect on (i) the financial condition, business, properties or assets of the Lessee and its Subsidiaries, taken as a whole, (ii) the validity or enforceability of the Operative Documents or the rights of the Lessor thereunder, or (iii) the use, value, operation or maintenance of the Property.

**“Memorandum of Lease”** shall mean the Memorandum of Lease dated as of the Closing Date executed by Lessor and Lessee, substantially in the form attached as Exhibit A to the Lease.

**“Monetary Default”** means any Lease Default arising from the Lessee’s failure to pay Basic Rent, Termination Amount or Stipulated Loss Value or arising under Section 15.1(e) of the Lease.

**“Moody’s”** means Moody’s Investors Service, Inc.

**“Mortgage”** means (a) the mortgage, deed of trust or equivalent security instrument, dated as of the Closing Date, between the Lessor, as mortgagor, and the Lender, as mortgagee, as the same may be amended or supplemented from time to time and (b) any other mortgage, deed of trust or equivalent security instrument encumbering the Property, the Lease and any assignment or sublease as the same may be amended or supplemented from time to time.

**“Net Casualty Proceeds”** shall mean the compensation and/or insurance payments, net of the expenses (including any sales, transfer or similar taxes) of collecting such amounts, received by the Lessor or the Lessee in connection with an Event of Loss or a Casualty.

**“Net Condemnation Proceeds”** shall mean any award, compensation or proceeds of title insurance, net of the expenses (including any sales, transfer or similar taxes) of collecting such amounts, received by the Lessor or the Lessee in connection with an Event of Taking or a Condemnation.

**“Net Proceeds”** shall mean Net Casualty Proceeds and Net Condemnation Proceeds.

**“Nondisturbance Agreement”** shall mean the Subordination, Nondisturbance and Attornment Agreement, dated as of the Closing Date, among the Lessor, the Lessee and the Lender, as the same may be amended or supplemented from time to time.

**“Non-Severable Alteration”** shall describe an Alteration or part of an Alteration which cannot be readily removed from the Property without causing damage to, or diminution in the value of, the Property other than to a de minimis extent (as reasonably determined by Lessor).

**“Obsolete”** shall mean, as of any date of determination, that Lessee shall have made a determination, such determination to be evidenced by an Officer’s Certificate delivered to the Lessor, that the Property is uneconomic, obsolete or surplus, or has become impracticable for Lessee’s continued use and occupancy in Lessee’s business, as determined in good faith by Lessee exercising reasonable business judgement in making its determination.

**“OCC”** shall have the meaning specified in Section 14.2 of the Lease.

**“Officer’s Certificate”** of a Person means a certificate signed by the Chairman of the Board or the President or any Executive Vice President or any Senior Vice President or any other Vice President of such Person signing with the Treasurer or any Assistant Treasurer or the Controller or any Assistant Controller or the Secretary or any Assistant Secretary of the such Person, or by any Vice President who is also Controller or Treasurer signing alone.

**“Operative Documents”** shall mean the Lease, the Memorandum of Lease, the Nondisturbance Agreement, the estoppel certificate of Lessee, the Representations and Warranties Agreement, and the Asset Management Agreement, together with all amendments and supplements thereto.

**“Overall Transaction”** means all the transactions and activities referred to in or contemplated by the Operative Documents.

**“Overdue Rate”** shall mean the lesser of (i) the highest interest rate permitted by Applicable Laws and Regulations and (ii) the Prime Rate for the relevant period plus 2%; provided, however, that so long as any debt secured by the Mortgage remains outstanding with respect to the Property, the Overdue Rate shall be equal to the interest rate payable thereunder to the applicable Lender on late payments of interest or principal with respect to such debt.

**“Pass Through Trustee”** has the meaning specified in the Pass Through Trust Agreement.

**“Pass Through Trust Agreement”** means that certain Trust Agreement dated as of December 15, 1998, among Norwest Bank Minnesota, National Association, as Trustee, Legg Mason Mortgage Capital Corporation, as Initial Trustor and LM HBAN Mortgage Company, LLC, as participating lender.

**“Permitted Contest”** means any contest complying with the terms of Section 8.4 of the Lease.

**“Permitted Investments”** shall mean one or more of the following:

(i) obligations of, or obligations guaranteed as to principal and interest by, the United States government or any agency or instrumentality thereof, provided such obligations are backed by the full faith and credit of the United States of America;

(ii) federal funds, unsecured certificates of deposit, time or demand deposits, banker’s acceptances, and repurchase agreements having maturities of not more than 365 days, of any bank, the short-term debt obligations of which are rated A-1 by S&P and P-1 by Moody’s;

(iii) deposits that are fully insured by the Federal Deposit Insurance Corp. (FDIC);

(iv) debt obligations maturing in 365 days or less than are rated AAA or higher by S&P and Aaa or higher by Moody’s;

(v) commercial paper rated A-1 by S&P and P-1 by Moody’s and maturing in 270 days or less;

(vi) investment in money market funds rated AAAM or AAAM-G by S&P and Aaa by Moody’s; or

(vii) principal-only strips and interest only strips of noncallable obligations issued by the U.S. Treasury, and REFCORP securities stripped by Federal Reserve Bank of New York;

provided, however, that all instruments described above in clauses (i), (iii), (iv), (v), (vi) and (vii) should not have a “r” highlighter affixed to their rating and by its terms should have a predetermined fixed dollar amount of principal due at maturity that cannot vary or change. Interest may either be fixed or variable and should be tied to a single interest rate index plus a single fixed spread (if any), and move proportionally with that index.

**“Permitted Liens”** shall mean (i) the respective rights and interests of the Lessee and the Lessor, as provided in the Operative Documents, (ii) Lessor Liens and the Lien of the Mortgage, (iii) Liens for Impositions either not yet due or being contested in good faith and by appropriate proceedings, so long as such proceedings shall (A) not present any imminent danger of the sale, forfeiture or loss of any part of the Property, title thereto or any interest therein, interference with the use, value or disposition of the Property or the payment of Rent, (B) any danger of criminal liability or any material danger of any civil sanctions or penalties being imposed on the Lessor or the Lender, (C) any material danger that such proceedings could reasonably be expected to have a Material Adverse Effect, (D) the extension of the ultimate imposition of or time for payment of such amounts beyond the last day of the Basic Term or any

Renewal Term then in effect, or (E) for which appropriate reserves have been established in accordance with GAAP, (iv) materialmen's, mechanics', workers', repairmen's, employees' or other like Liens arising in the ordinary course of business for amounts either not yet due or being contested in good faith and by appropriate proceedings so long as such proceedings shall comply with the conditions set forth in clause (iii) above, (v) Liens arising out of judgments or awards with respect to which at the time an appeal or proceeding for review is being prosecuted in good faith and by appropriate proceedings and either have been bonded to the reasonable satisfaction of the Lessor and the Lender or the enforcement of such Lien has been stayed pending such appeal or review, (vi) Permitted Exceptions and easements, rights of way, covenants, conditions, restrictions, reservations, servitudes and rights of others against the Property which are granted pursuant to the Operative Documents, and (vii) assignments, easements, rights of way, covenants, conditions, restrictions, reservations, servitudes, rights of others, leases and subleases expressly permitted by the Operative Documents.

**"Person"** shall mean individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust (including a business trust), non-incorporated organization or government or any agency or political subdivision thereof or any other entity.

**"Personalty"** shall mean all furnaces, boilers, machinery, motors, compressors, elevators, fittings, piping, conduits, ducts, air conditioners, partitions, mechanical, electrical and HVAC systems and apparatus of every kind and all other fixtures owned by the Seller and located on, attached, affixed or incorporated into the Property to the extent that the same constitute personal property under applicable law; provided, however, none of the foregoing shall include Retained Property.

**"Prime Rate"** means the rate of interest from time to time announced by Citibank N.A. at its principal office as its prime commercial lending rate. Such rate is a rate set by Citibank N.A. based upon various factors including Citibank N.A.'s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. The Prime Rate is not intended to be the lowest rate of interest charged by Citibank N.A. in connection with extension of credit to debtors.

**"Property"** shall mean the Land together with the Improvements located thereon.

**"Rating Agency"** shall mean any of Fitch Investors Service, L.P., Moody's, Duff & Phelps Credit Rating Co. and S&P and **"Rating Agencies"** means S&P and at least one of the foregoing.

**"Regulations"** shall mean the income tax regulations promulgated from time to time under and pursuant to the Code.

**“Rejectable Offer”** means a rejectable offer of the Lessee pursuant to Article XIII of the Lease.

**“Release”** shall mean the release, deposit, disposal or leak of any Hazardous Material into or upon or under any land or water or air, or otherwise into the environment, including, without limitation, by means of burial, disposal, discharge, emission, injection, spillage, leakage, seepage, leaching, dumping, pumping, pouring, escaping, emptying, placement, migration from other property and the like.

**“Renewal Rent”** shall mean Basic Rent payable during any Renewal Term.

**“Renewal Term”** shall have the meaning specified in Section 4.1 of the Lease.

**“Rent”** shall mean Basic Rent and Supplemental Rent, collectively.

**“Rent Payment Dates”** shall mean, during the Basic Term, subject to the terms of Section 3.3 of the Lease, the first day of each calendar month.

**“Replaced Property”** shall have the meaning specified in Section 19.1 of the Lease.

**“Reporting Person”** shall have the meaning specified in Section 14.2 of the Lease.

**“Representations and Warranties Agreement”** means the Representations and Warranties Agreement, dated as of December 16, 1998, between the Seller and the Lessor.

**“Required Insurance”** shall have the meaning specified in Section 10.1 of the Lease.

**“Responsible Officer”** shall mean, with respect to the Lessor, the Chairman or Vice Chairman of the Board of Directors, the Chairman or Vice Chairman of the Executive Committee of the Board of Directors, the President, any Vice President (whether or not designated by a number or a word or words added before or after the title “Vice President”, including any Assistant Vice President), the Secretary, any Assistant Secretary, the Treasurer, and with respect to the Lessee, the Director of Real Estate and Facility Services (or if such position ceases to exist, the comparable position).

**“Retained Property”** shall mean (i) all proprietary computer software, (ii) all personal property and fixtures (including, without limitation, all inventory, equipment, machinery, racking, shelving, conveyor equipment, lifts and other trade fixtures and items of equipment used in connection with the operation of the Lessee’s business at the Property), (iii)

all trademarks and (iv) all telephone equipment and wiring, each to the extent owned by the Lessee and located at the Property.

**"S&P"** shall mean Standard & Poor's Rating Services, a division of the McGraw-Hill companies.

**"Seller"** shall mean the seller listed on Schedule 1 to the Lease.

**"Severable Alterations"** shall mean any Alterations which are not Non-Severable Alterations.

**"Stipulated Loss Value"** as of any Stipulated Loss Value Date during the Basic Term, shall mean, with respect to the Property, the amount set forth in Schedule 2 to the Lease and, as of any date during any Renewal Term, shall mean the amount determined in accordance with Article IV of the Lease.

**"Stipulated Loss Value Date"** shall mean each monthly date set forth on Schedule 1 to the Lease.

**"Subsidiary"** of any designated corporation means any corporation of which such designated corporation owns directly or indirectly, a majority (in number of votes) of the outstanding voting shares or controls (as such term is defined in the definition of "Affiliate" above) another corporation. For the purpose of this definition, the term "voting shares" means shares having, in the absence of any contingencies, voting power for the election of directors.

**"Substitute Property"** shall have the meaning specified in Article XIX of the Lease.

**"Supplemental Rent"** shall mean any and all amounts, liabilities and obligations other than Basic Rent which Lessee assumes or agrees or is otherwise obligated to pay under the Lease, any other Operative Document or any other document to which the Lessor and Lessee are parties (whether or not designated as Supplemental Rent) to, the Lessor or any other party, including, without limitation, Stipulated Loss Value, Fair Market Rental Value, and Fair Market Sales Value payments, and indemnities and damages for breach of any covenants, representations, warranties or agreements.

**"Termination Amount"** shall have the meaning specified in Section 13.1 of the Lease.

**"Termination Date"** shall mean any Obsolescence Termination Date.

**“Threshold Amount”** means (i) so long as the senior unsecured long-term indebtedness of Lessee is rated at least Investment Grade, \$250,000 and (ii) at all other times, \$50,000.

SCHEDULE 1

PARTIES AND TERMS

LESSOR:	LEESBURG BNK INVESTORS, DBT, a Delaware business trust	
LESSEE:	THE HUNTINGTON NATIONAL BANK	
BASIC RENT (Years 1-11):	Monthly: \$42,540.67	Annually: \$510,488.00
BASIC RENT (Years 12-22):	Monthly: \$34,806.00	Annually: \$417,672.00
TYPE OF PROPERTY:	RETAIL/OFFICE SPACE	
SELLER:	THE HUNTINGTON NATIONAL BANK	