



CERTIFICATE OF TITLE

First American Title Insurance Company

Title No. NCS-871769NY2-PHX1

First American Title Insurance Company ("the Company") certifies to the "proposed insured(s)" listed herein that an examination of title to the premises described in Schedule A has been made in accordance with its usual procedure and agrees to issue its standard form of title insurance policy authorized by the Insurance Department of the State of New York, in the amount set forth herein, insuring the interest set forth herein, and the marketability thereof, in the premises described in Schedule A, after the closing of the transaction in conformance with the requirements and procedures approved by the Company and after the payment of the premium and fees associated herewith excepting (a) all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth herein that are not disposed of to the satisfaction of the Company prior to such closing or issuance of the policy (b) any question or objection coming to the attention of the Company before the date of closing, or if there be no closing, before the issuance of the policy.

This Agreement to insure shall terminate (1) if the prospective insured, his or her attorney or agent makes any untrue statement with respect to any material fact or suppresses or fails to disclose any material fact or if any untrue answers are given to material inquiries by or on behalf of the Company; or (2) upon the issuance of title insurance in accordance herewith. In the event that this Certificate is endorsed and redated by an authorized representative of the Company after the closing of the transaction and payment of the premium and fees associated herewith, such "redated" Certificate shall serve as evidence of the title insurance issued until such time as a policy of title insurance is delivered to the insured. Any claim made under the redated Certificate shall be restricted to the conditions, stipulations and exclusions from coverage of the standard form of title insurance policy issued by the Company.

**THIS REPORT IS NOT A TITLE INSURANCE POLICY! PLEASE READ IT CAREFULLY.
THE REPORT MAY SET FORTH EXCLUSIONS UNDER THE TITLE INSURANCE POLICY AND MAY
NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE PROPERTY.
YOU SHOULD CONSIDER THIS INFORMATION CAREFULLY.**

First American Title Insurance Company

Dennis J. Gilmore
President

Jeffrey S. Robinson
Secretary



CLOSING REQUIREMENTS

1. **CLOSING DATE:** In order to facilitate the closing of title, please notify the closing department at least 48 hours prior to the closing, of the date and place of closing, so that searches may be continued.
2. **PROOF OF IDENTITY:** Identity of all persons executing the papers delivered on the closing must be established to the satisfaction of the Company.
3. **POWER OF ATTORNEY:** If any of the closing instruments are to be executed pursuant to a Power of Attorney, a copy of such Power should be submitted to the Company prior to closing. THE IDENTITY OF THE PRINCIPAL EXECUTING THE POWER AND THE CONTINUED EFFECTIVENESS OF THE POWER MUST BE ESTABLISHED TO THE SATISFACTION OF THE COMPANY. The Power must be in recordable form.
4. **CLOSING INSTRUMENTS:** If any of the closing instruments will be other than commonly used forms or contain unusual provisions, the closing can be simplified and expedited by furnishing the Company with copies of the proposed documents in advance of closing.
5. **LIEN LAW CLAUSE:** Deeds and mortgages must contain the covenant required by Section 13 of the Lien Law. The covenant is not required in deeds from referees or other persons appointed by a court for the sole purpose of selling property.
6. **REFERENCE TO SURVEYS AND MAPS:** Closing instruments should make no reference to surveys or maps unless such surveys or maps are on file.
7. **INTERMEDIARY DEEDS:** In the event an intermediary will come into title at closing, other than the ultimate insured, the name of such party must be furnished to the Company in advance of closing so that appropriate searches can be made and relevant exceptions considered.

MISCELLANEOUS PROVISIONS

1. THIS CERTIFICATE IS INTENDED FOR LAWYERS ONLY. YOUR LAWYER SHOULD BE CONSULTED BEFORE TAKING ANY ACTION BASED UPON THE CONTENTS HEREOF.
2. THE COMPANY'S CLOSER MAY NOT ACT AS LEGAL ADVISOR FOR ANY OF THE PARTIES OR DRAW LEGAL INSTRUMENTS FOR THEM. THE CLOSER IS PERMITTED TO BE OF ASSISTANCE ONLY TO AN ATTORNEY.
3. Our policy will except from coverage any state of facts which an accurate survey might show, unless survey coverage is ordered. When such coverage is ordered, this certificate will set forth the specific survey exceptions which we will include in our policy. Whenever the word "trim" is used in any survey exceptions from coverage, it shall be deemed to include, roof cornices, mouldings, belt courses, water tables, keystones, pilasters, portico, balcony all of which project beyond the street line.
4. Our examination of the title includes a search for any unexpired financing statements which affect fixtures and which have been properly filed and indexed pursuant to the Uniform Commercial Code in the office of the recording officer of the county in which the real property lies. No search has been made for other financing statements because we do not insure title to personal property. We will on request, in connection with the issuance of a title insurance policy, prepare such search for an additional charge. Our liability in connection with such search is limited to \$1,000.00.
5. This company must be notified immediately of the recording or the filing, after the date of this certificate, of any instrument and of the discharge or other disposition of any mortgage, judgment, lien or any other matter set forth in this certificate and of any change in the transaction to be insured or the parties thereto. The continuation will not otherwise disclose the disposition of any lien.
6. If affirmative insurance is desired regarding any of the restrictive covenants with respect to new construction or alterations, please request such insurance in advance of closing as this request should not be considered at closing.
7. If it is discovered that there is additional property or an appurtenant easement for which insurance is desired, please contact the Company in advance of closing so that an appropriate title search may be made. In some cases, our rate manual provides for an additional charge for such insurance.



Proposed Insured
Purchaser: TBD
Mortgagee:

First Amendment
Title No.: **NCS-871769NY2-PHX1**
Effective Date: 09/27/2017
Redated:

Amount of Insurance:
Fee: \$0.00
Mortgage: \$0.00

THIS COMPANY CERTIFIES that a good and marketable title to the premises described in Schedule "A", subject to the liens, encumbrances and other matters, if any, set forth in this certificate may be conveyed and or mortgaged by:

SPIRIT MASTER FUNDING III, LLC, a Delaware limited liability company

Who acquired title by deed from Spirit Master Funding IV, LLC dated 6/30/2009 and recorded 8/12/2009 in Instrument # 2009-5206 (see post).

Spirit Master Funding IV, LLC acquired title by deed from GE Capital Finance Corporation, successor by merger with Franchise Finance Corporation of America, sole shareholder and successor by dissolution of FFCA Acquisition Corporation dated 12/21/2007 recorded 1/9/2008 in Book 1429 of Deeds, Page 221 (see post).

Premises described in Schedule "A" are known as:

Address: 107 Utica Street,
Hamilton, New York
County: Madison

Town: Hamilton

Section: 153.19

Village: Hamilton

Block: 1

Lot: 35

**For any Title Clearance Questions
on this Report please call**

(602)567-8100

RJW/jb



Title No. NCS-871769NY2-PHX1

SCHEDULE "A"

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE VILLAGE OF HAMILTON, TOWN OF HAMILTON, COUNTY OF MADISON AND STATE OF NEW YORK BEING A PORTION OF LOT #1 IN SAID TOWN BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE CENTERLINE OF UTICA STREET (NEW YORK STATE ROUTE 12B), SAID POINT STANDING AT THE INTERSECTION OF THE CENTERLINE OF UTICA STREET WITH THE NORTHERLY BOUNDARY OF SIDNEY A. BURGESS AND JUDITH A. BURGESS (NOW OR FORMERLY) AS DESCRIBED IN A WARRANTY DEED DATED JULY 3, 1962 AND FILED IN THE MADISON COUNTY CLERK'S OFFICE IN LIBER 599 OF DEEDS AT PAGE 46;

THENCE SOUTH 74° 23' 26" WEST 250.00 FEET ALONG THE NORTHERLY BOUNDARY OF BURGESS TO AN IRON PIN, SAID LAST MENTIONED COURSE BEING FURTHER MARKED BY AN IRON PIN STANDING HEREIN DISTANT 24.78 FEET WESTERLY AS MEASURED FROM THE CENTERLINE OF UTICA STREET;

THENCE NORTH 13° 05' WEST 100.00 FEET TO AN IRON PIN;

THENCE NORTH 74° 23' 26" EAST 250.00 FEET TO A POINT ON THE CENTERLINE OF UTICA STREET, SAID LAST MENTIONED COURSE BEING FURTHER MARKED BY AN IRON PIN STANDING THEREIN DISTANT 24.78 FEET WESTERLY AS MEASURED FROM THE CENTERLINE OF UTICA STREET;

THENCE SOUTH 13° 05' EAST 100.00 FEET ALONG THE CENTERLINE OF UTICA STREET TO THE POINT AND PLACE OF BEGINNING.

THE policy to be issued under this report will insure the title to such buildings and improvements erected on the premises, which by law constitute real property.

FOR CONVEYANCING ONLY: TOGETHER with all the right, title and interest of the party of the first part, of in and to the land lying in the street in front of and adjoining said premises.



Title No. NCS-871769NY2-PHX1

SCHEDULE "B-I"
(REQUIREMENTS)

THE FOLLOWING ARE REQUIREMENTS TO BE COMPLIED WITH FOR A TITLE POLICY TO ISSUE:

1. Searches, including judgments, federal tax liens and bankruptcies in the Northern District have been run against SPIRIT MASTER FUNDING III, LLC, the certified owner(s) herein and the following must be disposed of: NO RETURNS.
2. Re: SPIRIT MASTER FUNDING III, LLC, a Delaware limited liability company
 - (a) Proof is required of its formation and that it has not been dissolved. Proof is also required that there has been no change in the composition of the Limited Liability Company.
 - (b) A copy of its Articles of Organization and any amendments thereto, must be delivered to the Company for review in advance of closing.
 - (c) A copy of its Operating Agreement and any amendments thereto, must be delivered to the Company for review in advance of closing.
 - (d) Proof is required that the transaction to be insured has been duly authorized.
 - (e) A Certificate of Good Standing from the state of formation must be submitted.
 - (f) Proof of its authority to acquire, convey, lease or mortgage the premises described in Schedule A, as applicable, under the laws of the state of formation, must be submitted in advance of closing. (Note: a foreign limited liability company can have no greater powers than a domestic limited liability company under section 805(b) of the New York Limited Liability Company Law).
 - (g) The name(s) of the managing member(s) must be furnished to this Company in advance of the closing so that federal tax lien and bankruptcy searches can be run. If the limited liability company does not have managing members, please contact Company Counsel to identify the names of the members as to whom said searches are to be run.
3. The name of the proposed mortgagor must be disclosed to the Company in advance of closing so that the appropriate bankruptcy and lien searches can be run.
4. If the proposed mortgagor is an entity, the Certificate (Articles) and Agreements relating to its formation and operation and any amendments thereto and proof of its good standing and authority to acquire or lease and mortgage under the laws of the state (country) of its formation must be furnished the Company in advance of the closing.
5. A copy of the Contract of Sale must be submitted for consideration prior to closing.

NOTE: When applicable, a copy of the Contract of Sale must be submitted with the New York City Real Property Transfer Tax Return (RPT) when the consideration is \$400,000.00 or more.



Title No. NCS-871769NY2-PHX1

SCHEDULE B-I Continued
(REQUIREMENTS)

6. Closing mortgage/deed must contain the following recital: Being the same premises conveyed to the party of the first part herein by deed recorded on 1/9/2008 in(as) Book 1429 of Deeds, Page 221.
7. To verify at closing the identity of the persons who are executing closing documents, two forms of identification, at least one of which is to contain a photograph, is required to be presented.
8. Note: Payment at closing of any amount exceeding \$5,000.00 must be made by a bank or certified check, by a check issued from an attorney's escrow account, or by wired funds.
9. FOR INFORMATION ONLY:

RE: Real Property Tax Payments

NOTE: The recording of documents has been significantly delayed by many county recording offices in New York State. When real estate tax payments become due prior to the recording of a deed, the local tax assessor may not have sufficient information as to where tax bills are to be sent. Where this is an issue, it may be advisable to contact the office of your local tax assessor with a copy of the closing deed. First American is not responsible for the failure to receive real estate tax bills or for any additional charges that may result from the failure to timely pay such amounts. The prompt payment of real estate taxes is the responsibility of the property owner and its mortgage lender.
10. Note: Contact Counsel for the Company in advance of closing if a document is to be executed pursuant to a power of attorney.
11. Note: County Clerks require that each Form RP-5217, the Real Property Transfer Report, be printed as a 8 ½" X 14" legal size document. In addition, no handwritten information is accepted and bar coded Form RP-5217-PDF will only be accepted by the County Clerk, in counties in which the RP-5217-PDF is accepted, when the form has been completed online at http://www.tax.ny.gov/pdf/current_forms/orpts/rp5217.pdf . Compliance with these requirements is necessary to record the deed being insured. For a list of counties accepting Form RP-5217-PDF go to <http://www.tax.ny.gov/research/property/assess/rp5217/index.htm>.
12. Record a termination of the Land and Building Lease dated as of 7/16/1997, made by and between Pizza Hut of America, Inc., Lessor, and V&J National Enterprises, Inc., Lessee, (not recorded). As affected by the below:
 - A. Assignment and Assumption of Lease made by Pizza Hut of America, Inc., to GE Capital Franchise Finance Corporation dated as of 8/26/1997 (not recorded).
 - B. First Amendment of Lease dated as of 3/26/2007 (not recorded).
 - C. Notice and Assignment of Lease made by GE Capital Franchise Finance Corporation to Spirit Master Funding IV, LLC dated as of 12/21/2007 and recorded 1/9/2008 in Book 1429 of Deeds, Page 225 (see post).
 - D. Memorandum of Assignment of Lease made by Spirit Master Funding IV, LLC to Spirit Master Funding III, LLC dated as of 6/30/2009 and recorded 8/12/2009 in Instrument # 2009-5207 (see post).





Title No. NCS-871769NY2-PHX1
AMENDED 10/09/2017 (kn)

SCHEDULE "B-II"
(EXCEPTIONS)

**THE POLICY WILL INCLUDE AS EXCEPTIONS TO TITLE THE FOLLOWING MATTERS UNLESS THEY ARE
DISPOSED OF TO THE SATISFACTION OF THE COMPANY:**

1. Rights of tenants or persons in possession, if any.
2. Taxes, tax liens, tax sales, water rates, sewer rents and assessments set forth herein.
3. Any state of facts which a guaranteed survey of current date would disclose.

The exact location, courses, distances and dimensions of the premises described in Schedule A are not insured without a survey thereof acceptable to this Company.
4. There (is) are one open mortgage(s) of record. (See Mortgage Schedule herein)
5. Right of Way reserved in Deed made by James Zeller to Pizza Hut of North Haven, Inc. dated 4/5/1978 and recorded 4/5/1978 in Liber 705 Cp 267 (see post).
6. Easement Agreement made by and between FFCA Acquisition Corporation and the Village of Hamilton dated 5/14/2001 and recorded 5/18/2001 in Liber 1191 Cp 274 (see post).
7. Deleted Intentionally
8. Policy does not insure any title to land lying in the bed of Utica Street.
9. Any claim that the Title is subject to a trust or lien created under The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. §§499a, et seq.) or the Packers and Stockyards Act (7 U.S.C. §§181 et seq.) or under similar state laws.
10. **OMITTED 10/09/2017 (kn)** Tax search will be forwarded upon receipt. Additional exceptions may be raised on review of that search.



Title No. NCS-871769NY2-PHX1
AMENDED 10/09/2017 (kn)

SCHEDULE B-II Continued
(EXCEPTIONS)

11. **ADDED 10/09/2017 (kn)**FOR INFORMATION ONLY: The tax search indicates that current, actual water meter readings have not been entered, and/or there may have been minimum, average or estimated water meter readings. Policy does not insure against water charges and sewer rents, entered and billed subsequent to closing for periods prior to closing and interest thereon.

NOTE: A request for a final reading should be made in advance of closing from the appropriate authority.

12. **ADDED 10/09/2017 (kn)**FOR INFORMATION ONLY: The tax search reveals that the water is supplied by the municipality. In the event that water charges are not paid, they will be relevied as part of a general tax. Policy does not insure against water charges relevied to general taxes subsequent to closing for periods prior to closing.



Title No. NCS-871769NY2-PHX1

SURVEY READING



Title No. NCS-871769NY2-PHX1

MORTGAGE SCHEDULE

MORTGAGE

MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING made by SPIRIT MASTER FUNDING IV, LLC to CITIBANK, N.A., IN ITS CAPACITY AS COLLATERAL AGENT FOR THE NOTEHOLDERS in the amount of \$310,000.00 dated as of 12/21/2007, recorded 1/9/2008 in (as) Book 2371 of Mortgages, page 214. (Mortgage Tax Paid: \$2,325.00)

Mortgage above may be assigned and/or satisfied by:

CITIBANK, N.A., IN ITS CAPACITY AS COLLATERAL AGENT FOR THE NOTEHOLDERS

This title report does not show all the terms and provisions of the mortgage(s) set forth herein. Interested parties should contact the holder(s) thereof to ascertain the terms, covenants and conditions contained therein, and to determine if there are any unrecorded amendments or modifications thereto.



**CONSUMER NOTICES AND DISCLOSURES AS REQUIRED
PURSUANT TO NEW YORK INSURANCE LAW:**

Date: October 26, 2017
Order/File No. NCS-871769NY2-PHX1
The Property: 107 Utica Street, Hamilton, NY
To: (Borrower(s)) TBD

These disclosures and Notices are for the purposes of compliance with New York Insurance law and do not alter or change the coverages, exceptions, exclusions, or conditions of the final policies issued in connection with the subject transaction. Any person who knowingly, and with intent to defraud any insurance company or other person, files an application for insurance or statement of claim containing any materially false information, or conceals, for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars (\$5,000.00) and the stated value of the claim for each such violation.

THIS REPORT IS NOT A TITLE INSURANCE POLICY. PLEASE REVIEW THIS REPORT WITH A REAL ESTATE PROFESSIONAL REPRESENTING YOUR INTEREST IN THIS TRANSACTION. PLEASE READ IT CAREFULLY. THE REPORT MAY SET FORTH EXCLUSIONS UNDER THE TITLE INSURANCE POLICY AND MAY NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE PROPERTY. YOU SHOULD CONSIDER THIS INFORMATION CAREFULLY.



**NOTICE CONCERNING AVAILABILITY OF AN
"OWNER'S" POLICY OF TITLE INSURANCE**

Please indicate that this transaction is either: a refinance_____ or, a purchase_____.

Our records indicate that you currently are seeking only a "Lender's" title insurance policy, not an "Owner's" title insurance policy.

You have the option of purchasing an Owner's insurance policy. Please read the following disclosures concerning "Lender's" and "Owner's" title insurance policies, and initial in the space provided to confirm that you have read and understand the disclosures.

_____ I/We acknowledge that the Lender's title insurance policy issued in connection with this financing provides insurance to the lender only and does not insure my/our interest in the property as the owner(s) of the property.

_____ I/We acknowledge that I/we understand that the Lender's policy insures that the lender has a valid and enforceable encumbrance on the property that I/we own or that I/we am/are purchasing. An Owner's Policy, if purchased by me/us, would insure me/us and provide me/us with an opportunity for a legal defense against claims made against the title to the property. The Owners' policy would also protect my/our equity in the property and assure the marketability of the property when I/we sell it. Without an Owners' policy I/we do not get those protections.

_____ I/We acknowledge that I/We have been given the opportunity to purchase an Owner's policy and that the website for First American Title Insurance Company title policy premium and endorsement rates is <http://facc.firstam.com/> and the Phone Number is (800) 724-0040.

I/We may obtain an Owner's Policy of Title Insurance which provides title insurance to me/us and the total premium for both policies will be \$_____.

This is an additional \$_____ above the cost of the Lender's Policy.

_____ I/We do request Owner's Policy of title insurance.

_____ I/We do not request Owner's Policy of title insurance.

TO BE SIGNED BY BUYER(S)/BORROWER(S)

Buyer/Borrower

Buyer/Borrower



FIRST AMERICAN TITLE INSURANCE

Municipality Contact Information

PARKING VIOLATIONS: A Satisfaction of Judgment must be obtained from the Parking Violations Bureau located at any of the below addresses. Said Satisfaction should then be filed with the New York County Clerk's Office located at 60 Centre Street, New York, NY and upon paying an **\$8.00** fee they will issue a Certificate of Disposition.

P.V.A. HELP CENTER DAY & HOURS: (212) 477-4430

MANHATTAN HELP CENTER: 66 John Street, 2nd Floor, New York, NY 10038

BRONX HELP CENTER: 1400 Williamsbridge Road

BROOKLYN HELP CENTER: 216 Joralemon Street

QUEENS HELP CENTER: 89-61 162nd Street

STATEN ISLAND HELP CENTER: 300 St. Marks Place

THE HELP CENTERS ARE OPEN MONDAY THROUGH FRIDAY – 8:30am to 7:00pm

NEW YORK STATE TAX COMMISSION LIENS – For information regarding disposition and payments, please write: Tax Compliance Division, P.O. Box 5149, Albany, New York 12205 or call (800) 835-3554 or (800) 452-0455.

FEDERAL TAX LIENS – For information regarding disposition and payments, please write: The Internal Revenue Services, 120 Church Street, New York, New York 10013 or at 210 East Post Road, White Plains, New York or call (800) 829-1040.

CITY OF NEW YORK LIENS – For information regarding disposition and payments, please write: The Department of Finance, Bureau of Tax Collection, 59 Maiden Lane, 24th Floor, New York, NY 10038 or call (212) 440-5400 or (212) 440-5479.

HIGHWAY DEPARTMENT (sidewalk violations) – For information regarding disposition and payments, Please write: NYC Dept. Of Transportation, 55 Water Street, New York, NY 10041 or call (212) 839-4302.

ENVIRONMENTAL CONTROL LIENS – For information regarding disposition and payments, please write: The Environmental Control Board, 66 John Street, 10th Floor, New York, NY 10038 or call (212) 560-6270.

TRANSIT ADJUDICATION LIENS – For information regarding disposition and payments, please write: 29 Gallatin Place, 3rd Floor (Bet. Fulton & Livingston St's.) Brooklyn, NY 11201 or call (347) 643-5805.

NEW YORK STATE INDUSTRIAL COMMISSIONER – For information regarding disposition and payments, please write: N.Y.S. Department of Labor, Building 12, State Campus, Room 509, Albany, NY 12240 or call (518) 457-5789 or (518) 457-0390.

INTEREST CLERK – For interest on all outstanding taxes in the City of New York or questions regarding In-Rem, please write: The City of New York, Department of Finance Adams Street, 345 Adams Street, 5th Floor, Brooklyn, NY 11201 or call (718) 935-6153.



First American Title

Privacy Information

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet.

In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

Fair Information Values

Fairness We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

Public Record We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

Use We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

Accuracy We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

Education We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

Security We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

ABSTRACTERS' INFORMATION SERVICE

3000 MARCUS AVE, SUITE 2W02 LAKE SUCCESS NY 11042

PHONE:(516) 918-4600 FAX:(516) 918-4540

**TAX SEARCH**

Prepared For: First American Title

County : MADISON

TITLE NO. 0250-NCS871769NY2PHX1

DATE: 10/2/2017

PREMISES: 107 UTICA STREET, HAMILTON

TOWN OF HAMILTON

VILLAGE OF HAMILTON

ACREAGE: 0.5 LOT SIZE:

ASSESSED OWNER: SPIRIT MASTER FUNDING III, LLC

TAX CLASSIFICATION: 426

ASSESSED VALUE: 75000/260300

SD: 253201 HAMILTON SECTION: 153.19 BLOCK: 1 LOT: 35 SWIS CODE: 253203

RETURNS

SEC: 153.19 BLOCK: 1 LOT: 35

2017 TOWN/COUNTY TAX PERIOD 01/01/17 - 12/31/17

FULL TAX DUE 01/01/17 - \$8,427.05 PAID

INCLUDES 2016/2017 RELEVIED SCHOOL TAX OF \$5,403.90

2017/2018 SCHOOL TAX PERIOD 07/01/17 - 06/30/18

FULL TAX DUE 09/01/17 - \$5,035.32 **OPEN**

2017/2018 VILLAGE TAX PERIOD 06/01/17 - 05/31/18

FULL TAX DUE 06/01/17 - \$3,214.21 PAID

WATER DISTRICT - HAMILTON

ACCOUNT # 0100980000

PERIOD: NA

AMOUNT: \$1,059.97 **OPEN DUE BY 10/06/17 (+ 1.5% TO 10/31/17)**

NOTE: FINAL READ / UP-TO-DATE BILL OR RECEIPT MUST BE PRODUCED AT CLOSING.

SUBJECT TO PRIOR WATER CHARGES NOT ENTERED AND SUBSEQUENT WATER CHARGES
SINCE DATE OF LAST READING.

SUBJECT TO CONTINUATION PRIOR TO CLOSING.

FOR TAX PAYMENT INFORMATION GO TO: <http://orps1.orpts.ny.gov/cfapps/MuniPro/swis/>

RECOMMEND THAT CUSTOMER CONFIRM AT CLOSING THAT OWNER HAS NOT RECEIVED NOTICE OF SPECIAL ASSESSMENTS (I.E., SIDEWALK REPAIRS, LOT CLEARANCE, OR EMERGENCY REPAIRS). SEARCH MAY NOT INCLUDE EXISTENCE OF SUCH NOTICES. EXEMPT PROPERTY RESTORED FACTORS (IF ANY) SHOWN ABOVE REPRESENT THE DIFFERENCE BETWEEN THE ACTUAL TAX SHOWN AND WHAT THE TAX WOULD HAVE BEEN HAD THERE BEEN NO EXEMPTION. RESTORED TAX IS FIGURED ON A PRO-RATA BASIS FROM DATE OF DEED TO END OF FISCAL YEAR OF EACH TAX SO AFFECTED. METHOD OF COLLECTION OF RESTORED TAX IS NOT UNIFORM FOR ALL MUNICIPALITIES. SEARCH DOES NOT INCLUDE LEVIES OF RESTORED TAXES NOT YET POSTED BY MUNICIPALITY. SOME ITEMS RETURNED MAY HAVE BEEN PAID BUT NOT OFFICIALLY POSTED BY MUNICIPALITY. RECOMMEND THAT CUSTOMER OBTAIN RECEIPTS FOR SUCH ITEMS AT CLOSING. TAX DUE DATES MAY VARY ANNUALLY. RECOMMEND THAT CUSTOMER CONFIRM DUE DATES WITH THE APPROPRIATE MUNICIPALITY. SEARCH MAY NOT INCLUDE ITEMS NOT A LIEN UP TO THE DATE SHOWN. SEARCH DOES NOT INCLUDE ARREARS FILED AGAINST ANY NAME OTHER THAN THE ASSESSED OWNER AS SHOWN ABOVE. THE RETURNS ARE SPECIFIC TO SECTION, BLOCK AND LOT.

IMPORTANT NOTICE ABOUT SEARCH INFORMATION ABOVE

DATA TRACE INFORMATION SERVICES LLC DISCLAIMS ANY AND ALL LIABILITY TO ANY PERSON OR ENTITY FOR THE PROPER PERFORMANCE OF SERVICES REFLECTING THE CONDITION OF TITLE TO REAL PROPERTY. THE SERVICES ARE PROVIDED 'AS IS' WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES BASED ON COURSE OF DEALING OR USAGE IN TRADE OR ERRORS OR OMISSIONS RESULTING FROM NEGLIGENCE. THIS IS NOT AN INSURED SERVICE. THIS DISCLAIMER SUPERSEDES ALL PRIOR AND CONTEMPORANEOUS UNDERSTANDINGS. THE SERVICES ARE EXCLUSIVELY FOR First American Title AND NOT FOR THE BENEFIT OF ANY THIRD PARTIES.

Abstracters' Information Service

3000 MARCUS AVENUE - SUITE 2W02 LAKE SUCCESS, N.Y. 11042

PHONE:(516) 918-4600 FAX:(516) 918-4540

MADISON MUNICIPAL TAX PAGE

TITLE NO. 0250-NCS871769NY2PHX1 Order Date: 10/2/2017

HAMILTON TOWN_#%
138 N. COURT STREET
WAMPSVILLE, NY 13163
(315) 366-2371

HAMILTON CS# (CMBD TNS)
47 W KENDRICK AVE
HAMILTON, NY 13346-1230
(315) 824-6300

HAMILTON VILLAGE#
PO BOX 119
HAMILTON, NY 13346-0119
(315) 824-1111

MADISON COUNTY
COUNTY OFFICE BUILDING
138 NORTH COURT STREET
WAMPSVILLE, NY 13163
(315) 366-2371

THE ABOVE IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THERE IS NO LIABILITY ASSUMED.



Madison County
Kenneth J. Kunkel Jr.
County Clerk
Wampsville, New York

Book: 1429 Page: 221

Document Number: 2008-00000159 Document Type: Deed
Recorded Date: 01/09/2008

Parties: GE CAPITAL FRANCHISE FINANCE CORP
SPIRIT MASTER FUNDING IV LLC
Comment: ALLIED TS
Recorded By: CLOSING USA LLC

Pages Charged: 3
Pages Scanned: 4

**** Examined and Charged as Follows ****

Deed	34.00
Coversheet	3.00
RP5217 Commercial	165.00
TP584 Affidavit	5.00

Recording Fee: 207.00

	<u>Town</u>	<u>Serial #</u>	<u>Consideration</u>
Tax-Transfer	1,232.00 HAMILTON	RS 1279	307,539.00
Basic	0.00		
Additional	0.00		
Special Additional	0.00		
Transfer	1,232.00		
Tax Fee:	1,232.00		

**** DO NOT REMOVE ****

**** This Page is Part of the Document ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office for:

File Information
Document Number: 2008-00000159
Recorded Date: 01/09/2008 11:19 A
Receipt Number: 77726

Mail Back
CLOSING USA LLC
250 MILE CROSSING BLVD
STE 4
ROCHESTER NY 14624-



Kenneth J. Kunkel Jr.

Kenneth J Kunkel Jr.
County Clerk

WHEN RECORDED, RETURN TO:

Mr. Gregg Seibert
Spirit Master Funding IV, LLC
14631 North Scottsdale Road
Suite 200
Scottsdale, Arizona 85254

When recorded mail to:
LandAmerica Financial Group, Inc.
Attn: *K. Brown*
1850 N. Central Avenue, Suite 300
Phoenix, AZ 85004
Origsw No. *22-54237*

SPECIAL WARRANTY DEED

FOR THE CONSIDERATION OF TEN DOLLARS (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, **GE CAPITAL FRANCHISE FINANCE CORPORATION**, a Delaware corporation ("Grantor"), successor by merger with Franchise Finance Corporation of America, sole shareholder and successor by dissolution of FFCA Acquisition Corporation, whose address is 8377 East Hartford Drive, Suite 200, Scottsdale, Arizona, 85255 does hereby grant, sell, and convey to **SPIRIT MASTER FUNDING IV, LLC**, a Delaware limited liability company ("Grantee"), whose address is 14631 North Scottsdale Road, Suite 200, Scottsdale, Arizona 85254 and Grantee's successors and assigns forever, the following described property in the City of Hamilton, Madison County, New York, (the "Property") as conveyed to Grantor by Warranty Deed dated August 26, 1997 and recorded September 10, 1997 in Madison County Clerk's Office in Liber 1076, Page 253, more fully described on the Exhibit A attached hereto and incorporated herein by this reference for full legal description.

Tax Account Number: 153.19-1.35

Tax Mailing Address: 14631 North Scottsdale Road
Suite 200
Scottsdale, Arizona 85254-2711

Property Address: 107 Utica Street
Hamilton, New York

The Property is granted, sold and conveyed subject to all taxes, assessments, patents, easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions of record, and all matters which an accurate inspection and/or survey of the Property would disclose.

Subject to the foregoing, Grantor hereby binds itself and its successors to warrant and defend title to the Property as against all acts of Grantor and none other, subject to the matters above set forth. This deed is subject to the trust provisions of Section 13 of the Lien Law.

8000-5558
Hamilton, New York

Dated December 27th, 2007.

GRANTOR:

GE CAPITAL FRANCHISE FINANCE
CORPORATION, a Delaware corporation

By: [Signature]
Printed Name: Deborah R. Barker
Title: Vice President

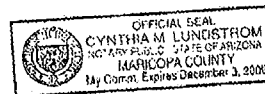
STATE OF ARIZONA |
 | SS.
COUNTY OF MARICOPA |

On this 20th day of December, 2007, before me, the undersigned, a Notary Public in and for the State of Arizona, duly commissioned and sworn, personally appeared Deborah R. Barker to me known to be the Vice President, of the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

My Commission Expires:
12-03-09

Cynthia M. Lundstrom
Printed Name: Cynthia M. Lundstrom
Notary Public, Maricopa County, Arizona



0000-5558
Hamilton, New York

EXHIBIT A

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Hamilton, ~~Town of Hamilton~~ County of Madison and State of New York being a portion of Lot #1 in said Town bounded and described as follows: Beginning at a point on the centerline of Utica Street (New York State Route 12B), said point standing at the intersection of the centerline of Utica Street with the northerly boundary of Sidney A. Burgess and Judith A. Burgess (now or formerly) as described in a warranty deed dated July 3, 1962 and filed in the Madison County Clerk's Office in Liber 599 of Deeds at page 46; thence S 74° 23' 26" W, 250.00 feet along the northerly boundary of Burgess to an iron pin, said last mentioned course being further marked by an iron pin standing herein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence N 13° 05' W 100.00 feet to an iron pin; thence N 74° 23' 26" E 250.00 feet to a point on the centerline of Utica Street, said last mentioned course being further marked by an iron pin standing therein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence S 13° 05' E 100.00 feet along the centerline of Utica Street to the point and place of beginning

#87001558
7-5-2 National Foods
Hamilton, New York



MADISON COUNTY - STATE OF NEW YORK
KENNETH J. KUNKEL JR, COUNTY CLERK
138 NORTH COURT ST, WAMPVILLE, NY 13163

COUNTY CLERK'S RECORDING PAGE
THIS PAGE IS PART OF THE DOCUMENT - DO NOT DETACH



RECEIPT NO. : 2009112975

Clerk: KS
Instr #: 2009-5206
Rec Date: 08/12/2009 10:42:28 AM
Doc Grp: D
Descrip: DEED
Num Pgs: 6
Rec'd Frm: OVAC

Party1: SPIRIT MASTER FUNDING IV LLC
Party2: SPIRIT MASTER FUNDING III LLC
Town: HAMILTON
VILLAGE OF HAMILTON

Recording:

Cover Page	5.00
Recording Fee	45.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 - County	9.00
RP5217 All others - State	241.00

Sub Total: 325.00

Transfer Tax
Transfer Tax 302.00

Sub Total: 302.00

Total: 627.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****

Transfer Tax# : 59

Consideration: 75231.21
Transfer Tax: 302.00

Record and Return To:

TICOR TITLE
201 E JEFFERSON ST
SYRACUSE NY 13202

I hereby certify that the within and
foregoing was recorded in the Clerk's
Office for Madison County, NY

County Clerk

**Drafted by and
after recording
mail to:**

Kelly G. Reynoldson, Esq.
Kutak Rock LLP
1801 California Street, #3100
Denver, CO 80202
303-297-2400

GENERAL WARRANTY DEED

ADDRESS OF NEW OWNER	SEND TAX BILLS TO	MAP/PARCEL NO.
Spirit Master Funding III, LLC	Spirit Master Funding III, LLC	153.19-1.35
14631 N. Scottsdale Rd., Suite 200	14631 N. Scottsdale Road, Suite 200	
Scottsdale, AZ 85254-2711	Scottsdale, AZ 85254-2711	

FOR AND IN CONSIDERATION of the sum of TEN DOLLARS (\$10.00) paid by the hereinafter named Grantee, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, SPIRIT MASTER FUNDING IV, LLC, a Delaware limited liability company, with a mailing address of 14631 N. Scottsdale Road, Suite 200, Scottsdale, Arizona 85254-2711 (the "Grantor") has bargained and sold, and by these presents does transfer and convey unto SPIRIT MASTER FUNDING III, LLC, a Delaware limited liability company, with a mailing address of 14631 N. Scottsdale Road, Suite 200 Scottsdale, AZ 85254-2711 (the "Grantee"), Grantee's successors and assigns, a certain tract or parcel of land in Madison County, State of New York, being more particularly described as follows, to wit:

See attached Exhibit A incorporated herein.

4832-6200-1411.1
SPIRIT - GEIX
107 Ulrica St., Hamilton, NY 13340
6462/02-1012

UNDER AND SUBJECT to all easements, restrictions and reservations of record or apparent on the ground.

Being in all respects the same property conveyed the Grantor by Deed dated December 21, 2007, and recorded on January 9, 2008, at Document No. 2008-00000159 in Deed Book 1429, Page 221, of the Madison County Clerk's Records, New York.

This conveyance is subject to taxes for a portion of the year 2009 and subsequent years and all matters shown on documents of record.

TO HAVE AND TO HOLD the said tract or parcel of land with the appurtenances, estate, title, and interest thereto belonging to the said Grantee, Grantee's successors and assigns, forever.

And Grantor does covenant with the said Grantee that Grantor is lawfully seized and possessed of said land in fee simple; has a good right to convey it, and the same is free from all encumbrances made or suffered by Grantor, except as set forth of record and representations and limitations as expressly provided for hereby.

Grantee, by its acceptance hereof, specifically acknowledges and assumes all obligations pursuant to that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of December 21, 2007 by Grantor for the benefit of Citibank, N.A. as collateral agent and recorded January 9, 2008 at Book 2371, Page 214 in the Real Property Records of Madison County, New York, which said mortgage debt in the amount of \$162,432.15 the Grantee hereby assumes and agrees to pay as part of the purchase price of the above described premises, and the Grantee hereby executes and acknowledges this instrument as by law required.

This deed is subject to the trust provision of Section 13 of the Lien Law.

And Grantor does further covenant and bind itself, its successors and assigns, to warrant and forever defend the title to the Property to the said Grantee, its successors and assigns against the lawful claims of all persons. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

The said premises does not constitute all or substantially all of the assets of the Grantor and the conveyance is being made in the usual and regular course of Grantor's business.

SIGNATURE APPEARS ON FOLLOWING PAGE

4332-8200-1411.1
Sprint - GEIX
107 Ultee St., Hamilton, NY 13340
6452/02-1012

IN WITNESS WHEREOF, the said Grantor, hereunto set its hand, this 30 day of June, in the year 2009.

SPIRIT MASTER FUNDING IV, LLC, a Delaware limited liability company

By: [Signature]
Name: Michael T. Bennett
Its: Senior Vice President

Signed, sealed and delivered in our presence:

Name: JONI E. BARRETT

Name: MICHAEL SEGER

[illegible]

On the 29 day of June in the year 2009 before me, the undersigned, personally appeared Michael T. Bennett, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the County of Maricopa, State of Arizona.

Leah Lansing
Printed Name Leah Lansing, Notary Public

STATE OF ARIZONA
Maricopa County
Expires 4-13-2011

IN WITNESS WHEREOF, the said Grantee, hereunto set its hand, this 30 day of June, in the year 2009.

SPIRIT MASTER FUNDING III, LLC, a
Delaware limited liability company

By: Spirit Finance Corporation, a Maryland
corporation, Property Manager

By: Spirit Finance Capital Management, LLC,
a Delaware limited liability company, Manager

By: [Signature]

Name: Michael T. Bennett

Its: Senior Vice President

Signed, sealed and delivered in our presence:

[Signature]
Name: JOHN G. BARRETT

Name: _____

STATE OF ARIZONA]
] SS.
COUNTY OF MARICOPA]

On the 29 day of June in the year 2009 before me, the undersigned, personally appeared Michael T. Bennett, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the County of Maricopa, State of Arizona.

[Signature]
Printed Name Leah Lansing, Notary Public

STATE of ARIZONA
Maricopa County
Expires 4-13-2011

4632-6200-1411.1
Spirit - GEIX
107 Ulrica St., Hamilton, NY 13346
6452/02-1012

EXHIBIT A

LEGAL DESCRIPTION

Street Address: 107 Utica St., Hamilton, NY 13346

Legal Description:

all THAT TRACT OR PARCEL OF LAND situate in the Village of Hamilton, ~~Town Hamilton~~ County of Madison and State of New York being a portion of Lot #1 in said Town bounded and described as follows: Beginning at a point on the centerline of Utica Street (New York State Route 12B), said point standing at the intersection of the centerline of Utica Street with the northerly boundary of Sidney A. Burgess and Judith A. Burgess (now or formerly) as described in a warranty deed dated July 1, 1962 and filed in the Madison County Clerk's Office in Liber 599 of Deeds at page 46; thence S 74° 23' 26" W. 250.00 feet along the northerly boundary of Burgess to an iron pin, said last mentioned course being further marked by an iron pin standing herein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence N 13° 05' W 100.00 feet to an iron pin; thence N 74° 23' 26" E 250.00 feet to a point on the centerline of Utica Street, said last mentioned course being further marked by an iron pin standing therein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence S 13° 05' E 100.00 feet along the centerline of Utica Street to the point and place of beginning

4832-6209-1411.1
Split - GEIX
107 Utica St., Hamilton, NY 13346
8452/02-1012

This Indenture,

Made the 3rd day of July

Nineteen Hundred and sixty-two

Between ALICE M. BURGESS of the Village of Hamilton, Madison County, New York,

part y of the first part, and

SIDNEY A. BURGESS and JUDITH A. BURGESS, his wife, of the Village of North Norwich, County of Chenango and State of New York, and as tenants by the entirety,

Witnesseth that the part y of the first part, in consideration of parties of the second part,

----One---

Dollar (\$ 1.00)

lawful money of the United States, and other good and valuable consideration paid by the parties of the second part, do hereby grant and release unto the parties of the second part, their heirs and assigns forever, all THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamilton, Madison County, New York, and being that portion of the following described premises which is situate on the west side of New York State Highway, Route 12B running northerly in the Village of Hamilton, bounded as follows: BEGINNING at the northeast corner of Lot No. one in Hamilton aforesaid from thence runs south 88 deg. west on the town line ten chains and sixty links to the center of the highway; thence south 19 deg. east four chains and eleven links to the southeast corner of lands formerly owned by James Russell and James Russell, Jr., thence north 88 deg. west eight chains and eighty-eight links to a stake; thence north 19 deg. west four chains and sixty-two links to the Town Line thence north 88 deg. West on the Town line four chains and fifty-six links to the center of a small ditch east of the canal made for the purpose of draining the lowlands contiguous, thence southeast along the center of said ditch to lands formerly owned by Orlo Rogers; thence on the line of the Chenango Canal to land formerly owned by Medad Rogers thence south 83 deg. east on said Rogers line to the east line of said Lot No. 1, thence north on the line of said Lot thirteen chains and nineteen links to the place of beginning, containing twenty acres of land be the same more or less.

The party of the first part does hereby convey transfer and deliver unto the second party all of that portion or part of the above described premises which is situate on the westerly side of New York State highway 12B and being the same premises heretofore conveyed by Ralph T. Warriner to Ralph E. Warriner by a Quit-claim deed dated April 30, 1942 and duly recorded in Madison County Clerk's Office on October 18, 1948 in Liber 413 of deeds at page 169.

EXCEPTING AND RESERVING all that tract or parcel of land as described in a certain warranty deed from Edwin E. Whipple to Mary Jaquay dated November 4, 1948 and recorded in Madison County Clerk's Office in Liber 414 of deeds at page 250 on the 9th day of November, 1948, more particularly described as follows: ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Hamilton, Madison County, New York, bounded and described as follows: BEGINNING in the center of Utica Street at

the S. E. corner of the premises herein conveyed, thence S. 75 degrees W. 22.75 ft. to an iron pipe; thence 500 ft. in the same direction along the land retained by Edwin E. Whipple to an iron pipe set in the east bank of the old Chenango Canal; thence in the same direction about 25 ft. to the center of the canal; thence along the center of the canal N. 33 deg. 15 min. W. 1051 ft. to the town line; thence S. 82 degrees 30 min. E. about 25 ft. along the town line to an iron pipe set on the east bank of the canal; thence in the same direction along the town line 374 ft. to an iron pipe; thence S. 10 degrees 30 min. E. 307 ft. along the land of Edward Tackabury to an iron pipe; thence S. 84 deg. E. 450 ft. along the land of Tackabury to an iron pipe set in the N.W. Corner of a lot belonging to Rose Webb; thence along the land of Webb S. 20 deg. E. 127 ft. to an iron pipe; thence N. 77 deg. 28 min. E. 120 ft. along the land of Webb to the center of Utica St., thence S. 12 deg. 12 min. E. 251.75 ft. along the center of Utica St. to the place of beginning, containing 8 acres more or less.

EXCEPTING AND RESERVING unto Edwin E. Whipple, party of the first part, his heirs, successors, and assigns, a right of way from Route 12 B, 12 feet in width along the southerly edge of the above described premises to the westerly edge of the said premises or the Old Chenango Canal for the purpose of passing and repassing with vehicles or other means of conveyance.

Being a portion of the same premises heretofore conveyed by Ralph E. Warriner to Edwin E. Whipple by warranty deed dated October 22, 1948 and duly recorded in Madison County Clerk's Office in liber 413 of deeds at page 373 on the 25th day of October, 1948.

ALSO conveying unto Mary Jaquay, party of the second part, her heirs, successors and assigns, a right of way over the northwesterly edge of the premises of the party of the first part as now used or upon which the roadway leading from Route 12B to the old Chenango Canal runs over or touches the premises of Edwin E. Whipple, party of the first part, it being the intent of Edwin E. Whipple, party of the first part, to grant a right of way for the passage of vehicles or other means of conveyance over only that portion of his premises that are now used for a roadway, being along the northwesterly corner near the old Chenango Canal."

Being a portion of the same premises heretofore conveyed by Ralph E. Warriner to Edwin E. Whipple by Warranty Deed dated October 22, 1948 and duly recorded in Madison County Clerk's Office in liber 413 of deeds at page 373 on the 25th day of October, 1948.

Being the same premises heretofore conveyed by Edwin E. Whipple to Henry E. Graves by a warranty deed dated November 16, 1948 and duly recorded in the Madison County Clerk's Office in liber 414 of deeds at page 430 on the 17th day of November, 1948, the description contained in said deed having been corrected by a deed between Edwin E. Whipple and Henry E. Graves dated June 21, 1950 and recorded in the Madison County Clerk's Office.

Being the same premises conveyed to Alice M. Burgess by Henry E. Graves by deed dated June 21, 1950, recorded June 24, 1950 in liber 438 of deeds at page 302 in the Madison County Clerk's Office.

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

To have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever.

And said party of the first part

covenants as follows:

First, That the parties of the second part shall quietly enjoy the said premises;

Second, That said party of the first part

will forever Warrant the title to said premises.

In Witness Whereof, the party of the first part has hereunto set her hand and seal the day and year first above written.

In Presence of

Alice M. Burgess

State of New York } ss. On this 3rd day of July
County of Chenango } Nineteen Hundred and sixty-two
before me, the subscriber, personally appeared

ALICE M. BURGESS

to me personally known and known to me to be the same person described in and who executed the within Instrument, and she duly acknowledged to me that she executed the same.

Edward J. Fisher
Notary Public
Appointed in Madison County
Comm. expires 3/30/63.

State of New York }
County of Chenango }
Clerk's office

Recorded on the 9th
Day of July 1962 10:25

at 5 M. in Liber 599 of

Deeds of

Page 46 and adjacent

Kenneth R. Fisher



Madison County
Kenneth J. Kunkel Jr.
County Clerk
Wampsville, New York

Book: 1429 Page: 221

Document Number: 2008-00000159 Document Type: Deed
Recorded Date: 01/09/2008

Parties: GE CAPITAL FRANCHISE FINANCE CORP
SPIRIT MASTER FUNDING IV LLC
Comment: ALLIED TS
Recorded By: CLOSING USA LLC

Pages Charged: 3
Pages Scanned: 4

**** Examined and Charged as Follows ****

Deed	34.00
Coversheet	3.00
RP5217 Commercial	165.00
TP584 Affidavit	5.00

Recording Fee: 207.00

	<u>Town</u>	<u>Serial #</u>	<u>Consideration</u>
Tax-Transfer	1,232.00 HAMILTON	RS 1279	307,539.00
Basic	0.00		
Additional	0.00		
Special Additional	0.00		
Transfer	1,232.00		
Tax Fee:	1,232.00		

**** DO NOT REMOVE ****

**** This Page is Part of the Document ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office for:

File Information
Document Number: 2008-00000159
Recorded Date: 01/09/2008 11:19 A
Receipt Number: 77726

Mail Back
CLOSING USA LLC
250 MILE CROSSING BLVD
STE 4
ROCHESTER NY 14624-



Kenneth J. Kunkel Jr.

Kenneth J Kunkel Jr.
County Clerk

WHEN RECORDED, RETURN TO:

Mr. Gregg Seibert
Spirit Master Funding IV, LLC
14631 North Scottsdale Road
Suite 200
Scottsdale, Arizona 85254

When recorded mail to:
LandAmerica Financial Group, Inc.
Attn: *K. Brown*
1850 N. Central Avenue, Suite 300
Phoenix, AZ 85004
Origsw No. *22-54237*

SPECIAL WARRANTY DEED

FOR THE CONSIDERATION OF TEN DOLLARS (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, **GE CAPITAL FRANCHISE FINANCE CORPORATION**, a Delaware corporation ("Grantor"), successor by merger with Franchise Finance Corporation of America, sole shareholder and successor by dissolution of FFCA Acquisition Corporation, whose address is 8377 East Hartford Drive, Suite 200, Scottsdale, Arizona, 85255 does hereby grant, sell, and convey to **SPIRIT MASTER FUNDING IV, LLC**, a Delaware limited liability company ("Grantee"), whose address is 14631 North Scottsdale Road, Suite 200, Scottsdale, Arizona 85254 and Grantee's successors and assigns forever, the following described property in the City of Hamilton, Madison County, New York, (the "Property") as conveyed to Grantor by Warranty Deed dated August 26, 1997 and recorded September 10, 1997 in Madison County Clerk's Office in Liber 1076, Page 253, more fully described on the Exhibit A attached hereto and incorporated herein by this reference for full legal description.

Tax Account Number: 153.19-1.35

Tax Mailing Address: 14631 North Scottsdale Road
Suite 200
Scottsdale, Arizona 85254-2711

Property Address: 107 Utica Street
Hamilton, New York

The Property is granted, sold and conveyed subject to all taxes, assessments, patents, easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions of record, and all matters which an accurate inspection and/or survey of the Property would disclose.

Subject to the foregoing, Grantor hereby binds itself and its successors to warrant and defend title to the Property as against all acts of Grantor and none other, subject to the matters above set forth. This deed is subject to the trust provisions of Section 13 of the Lien Law.

8000-5558
Hamilton, New York

Dated December 27th, 2007.

GRANTOR:

GE CAPITAL FRANCHISE FINANCE
CORPORATION, a Delaware corporation

By: [Signature]
Printed Name: Deborah R. Barker
Title: Vice President

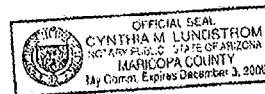
STATE OF ARIZONA |
COUNTY OF MARICOPA | SS.

On this 20th day of December, 2007, before me, the undersigned, a Notary Public in and for the State of Arizona, duly commissioned and sworn, personally appeared Deborah R. Barker to me known to be the Vice President, of the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

My Commission Expires:
12-03-09

Cynthia M. Lundstrom
Printed Name: Cynthia M. Lundstrom
Notary Public, Maricopa County, Arizona



0000-5558
Hamilton, New York

EXHIBIT A

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Hamilton, ~~Town of Hamilton~~ County of Madison and State of New York being a portion of Lot #1 in said Town bounded and described as follows: Beginning at a point on the centerline of Utica Street (New York State Route 12B), said point standing at the intersection of the centerline of Utica Street with the northerly boundary of Sidney A. Burgess and Judith A. Burgess (now or formerly) as described in a warranty deed dated July 3, 1962 and filed in the Madison County Clerk's Office in Liber 599 of Deeds at page 46; thence S 74° 23' 26" W, 250.00 feet along the northerly boundary of Burgess to an iron pin, said last mentioned course being further marked by an iron pin standing herein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence N 13° 05' W 100.00 feet to an iron pin; thence N 74° 23' 26" E 250.00 feet to a point on the centerline of Utica Street, said last mentioned course being further marked by an iron pin standing therein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence S 13° 05' E 100.00 feet along the centerline of Utica Street to the point and place of beginning

#87001558
V.S. & Associates
Madison, New York



MADISON COUNTY - STATE OF NEW YORK
KENNETH J. KUNKEL JR, COUNTY CLERK
138 NORTH COURT ST, WAMPSVILLE, NY 13163

COUNTY CLERK'S RECORDING PAGE
THIS PAGE IS PART OF THE DOCUMENT - DO NOT DETACH



RECEIPT NO. : 2009112975

Clerk: KS
Instr #: 2009-5207
Rec Date: 08/12/2009 10:42:29 AM
Doc Grp: D
Descrip: LEASE
Num Pgs: 6
Rec'd Frm: OVAC

Party1: SPIRIT MASTER FUNDING IV LLC
Party2: SPIRIT MASTER FUNDING III LLC
Town: HAMILTON
VILLAGE OF HAMILTON

Recording:

Cover Page	5.00
Recording Fee	45.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75

Sub Total: 70.00

Total: 70.00

**** NOTICE: THIS IS NOT A BILL ****

Record and Return To:

TICOR TITLE
201 E JEFFERSON ST
SYRACUSE NY 13202

I hereby certify that the within and
foregoing was recorded in the Clerk's
Office for Madison County, NY

County Clerk

Recording requested by and
~~when recorded return to:~~

Kutak Rock LLP
1801 California Street, Suite 3100
Denver, CO 80202
Attention: Kelly G. Reynoldson
09-58358

MEMORANDUM OF ASSIGNMENT OF LEASE

THIS MEMORANDUM OF ASSIGNMENT OF LEASE (this "Memorandum") is made effective as of June 30, 2009 (the "Effective Date"), by and between **SPIRIT MASTER FUNDING IV, LLC**, a Delaware limited liability company, with an address of 14631 North Scottsdale Road, Suite 200, Scottsdale, Arizona 85254-2711 ("Assignor"), and **SPIRIT MASTER FUNDING III, LLC**, a Delaware limited liability company, with an address of 14631 North Scottsdale Road, Suite 200, Scottsdale, Arizona 85254-2711 ("Assignee").

1. Assignor, as lessor, and Pizza Hut of America, Inc., a Delaware corporation, as lessee ("Lessee"), are parties to that certain Land and Building Lease Agreement dated as of July 16, 1997 (together with all amendments thereto, the "Lease"), with respect to the lease of certain real property described on Exhibit A attached hereto (individually or collectively, the "Property"). Initially capitalized terms not otherwise defined in this Memorandum shall have the meanings set forth in the Lease.

2. Pursuant to the Lease, the Property is leased to Lessee, and in connection therewith, a Notice and Assignment of Lease evidencing the Lease was recorded on January 9, 2008 as Document No. 2008-00000161, in Book 1429, at Page 225 in the Clerk's Office of Madison County, State of New York.

3. Pursuant to that certain Assignment and Assumption of Lease dated as of the date hereof (the "Assignment"), by and between Assignor and Assignee, Assignor has assigned all of its right, title and interest under the Lease to Assignee, and Assignee has agreed to be bound by all of the terms and conditions under the Lease.

4. Original copies of the Assignment are in the possession of the parties hereto. The Assignment contains other terms not set forth herein but which are incorporated by reference herein for all purposes. This Memorandum is executed for the purpose of placing parties dealing with the Property on notice of the existence of the Assignment and, where appropriate, its

4853-2238-8227.1
Spirit / Pizza Hut
Memorandum of Assignment of Lease
107 Ulster Street, Hamilton, NY 13346
File No. 645202-1012

contents, and the parties hereto ratify and confirm all other terms of the Assignment as if fully set forth herein. Additional information concerning the terms of the Assignment can be obtained from the parties hereto at the addresses set forth above.

5. This Memorandum is intended for recording purposes only and does not modify, supersede, diminish, add to or change all or any of the terms of the Lease (except as modified by the Assignment) or the Assignment in any respect. In the event of any conflict between the provisions of this Memorandum and the provisions of the Assignment, the provisions of the Assignment shall control.

6. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.

[Remainder of page intentionally left blank; signature page(s) to follow]

4853-2238-8227.1
Spirit / Pizzo Ltd
Memorandum of Assignment of Lease
107 Ulster Street, Hamilton, NY 13346
File No. 645202-1012

IN WITNESS WHEREOF, Assignor and Assignee have executed this Memorandum as of the Effective Date.

ASSIGNOR:

SPIRIT MASTER FUNDING IV, LLC, a
Delaware limited liability company

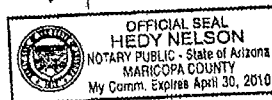
By: *Michael T. Bennett*
Name: Michael T. Bennett
Title: Senior Vice President

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

This instrument was acknowledged before me on this 29th day of June, 2009 by
Michael T. Bennett as Senior Vice President of **SPIRIT MASTER**
FUNDING IV, LLC, a Delaware limited liability company, on behalf of the company.

Hedy Nelson
Notary Public

My Commission expires 4/30/2010



ASSIGNEE:

SPIRIT MASTER FUNDING III, LLC,
a Delaware limited liability company

By: Spirit Finance Corporation,
a Maryland corporation, as Property Manager

By: Spirit Finance Capital Management, LLC, a
Delaware limited liability company, as
Manager

By: *Michael T. Bennett*

Name: Michael T. Bennett

Title: Senior Vice President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me on June 21st 2009 by
Michael T. Bennett, Senior Vice President of Spirit Finance Capital
Management, LLC, a Delaware limited liability company, as Manager of Spirit Finance
Corporation, a Maryland corporation, as Property Manager of **SPIRIT MASTER FUNDING
III, LLC**, a Delaware limited liability company, on behalf of the company.

Hedy Nelson
Notary Public

My Commission expires 4/30/2010

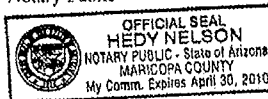


Exhibit A

Property

all THAT TRACT OR PARCEL OF LAND situate in the
Village of Hamilton, ~~Town of Hamilton~~ ^{Town of Hamilton} County of Madison and State of New York being
a portion of Lot #1 in said Town bounded and described as follows:
Beginning at a point on the centerline of Utica Street (New York
State Route 12B), said point standing at the intersection of the
centerline of Utica Street with the northerly boundary of Sidney A.
Burgess and Judith A. Burgess (now or formerly) as described in a
warranty deed dated July 3, 1962 and filed in the Madison County
Clerk's Office in Liber 599 of Deeds at page 46; thence S 74° 23'
26" W. 250.00 feet along the northerly boundary of Burgess to an iron
pin, said last mentioned course being further marked by an iron pin
standing herein distant 24.78 feet westerly as measured from the
centerline of Utica Street; thence N 13° 05' W 100.00 feet to an
iron pin; thence N 74° 23' 26" E 250.00 feet to a point on the
centerline of Utica Street, said last mentioned course being further
marked by an iron pin standing therein distant 24.78 feet westerly
as measured from the centerline of Utica Street; thence S 13° 05' E
100.00 feet along the centerline of Utica Street to the point and
place of beginning

Property commonly known as 107 Utica Street, Hamilton, NY 13346

4853-2238-8227.1
Spirit / Pizzini
Memorandum of Assignment of Lease
107 Utica Street, Hamilton, NY 13346
File No. 6452/02-1012

Madison County
Kenneth J. Kunkel Jr.
County Clerk
Wampsville, New York

Book: 1429 Page: 225

Document Number: 2008-00000161 Document Type: Lease
Recorded Date: 01/09/2008

Parties: GE CAPITAL FRANCHISE FINANCE CORP
SPIRIT MASTER FUNDING IV LLC

Pages Charged: 5
Pages Scanned: 6

Comment: ALLIED TS

Recorded By: CLOSING USA LLC

**** Examined and Charged as Follows ****

Lease	40.00
Coversheet	3.00
TP584 Affidavit	5.00
Recording Fee:	48.00

	<u>Town</u>	<u>Serial #</u>	<u>Consideration</u>
Tax-Transfer	0.00 HAMILTON	RS 1280	0.00
Basic	0.00		
Additional	0.00		
Special Additional	0.00		
Transfer	0.00		
Tax Fee:	0.00		

2371/214

**** DO NOT REMOVE ****

**** This Page is Part of the Document ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office for:

File Information

Document Number: 2008-00000161
Recorded Date: 01/09/2008 11:22 A
Receipt Number: 77726

Mail Back

CLOSING USA LLC
250 MILE CROSSING BLVD
STE 4
ROCHESTER NY 14624



Kenneth J. Kunkel Jr.

Kenneth J Kunkel Jr.
County Clerk

When recorded, return to:

Mr. Gregg Seibert
Spirit Master Funding IV, LLC
14631 North Scottsdale Road
Suite 200
Scottsdale, Arizona 85254-2711

When recorded mail to:
LandAmerica Financial Group, Inc.
Attn: K Brown
1850 N. Central Avenue, Suite 300
Phoenix, AZ 85004
Escrow No. 07-54237

NOTICE AND ASSIGNMENT OF LEASE

THIS NOTICE AND ASSIGNMENT OF LEASE (this "Notice") is made as of December 21, 2007, by and among **GE CAPITAL FRANCHISE FINANCE CORPORATION**, a Delaware corporation ("Assignor") successor by merger to Franchise Finance Corporation of America, a Maryland corporation, sole shareholder and successor by dissolution of FFCA Acquisition Corporation whose address is 8377 East Hartford Drive, Suite 200, Scottsdale, Arizona 85255, and **SPIRIT MASTER FUNDING IV, LLC**, a Delaware limited liability company ("Assignee"), whose address is 14631 North Scottsdale Road, Suite 200, Scottsdale, Arizona 85254-2711.

WITNESSETH:

1. Pizza Hut of America, Inc., a Delaware corporation ("Pizza Hut") and V&J National Enterprises, LLC, a Wisconsin limited liability company, ("Lessee"), entered into that certain lease dated as of July 16, 1997, as assigned by Pizza Hut to Assignor pursuant to that certain Assignment and Assumption of Lease dated as of August 26, 1997, and as amended by that certain First Amendment to Lease dated as of March 26, 2007 (as amended and assigned, the "Lease") with respect to the premises, located in Hamilton, Madison County, New York, and more particularly described on Exhibit A attached hereto, together with all buildings, structures, fixtures and improvements located thereon (collectively, the "Premises").
2. A Notice of the Lease was not recorded in the Official Records of Madison County, New York. Original copies of the Lease are in possession of the Lessee and the parties hereto.
3. Pursuant to that certain Master Assignment and Assumption of Lessor's Interest in Lease dated of even date herewith by and between Assignor and Assignee (the "Assignment"), Assignor has assigned all of its right, title and interest under the Lease to Assignee, and Assignee has agreed to be bound by all of the terms and conditions under the Lease.

8900-5558
Hamilton New York

4. Original copies of the Assignment are in the possession of the parties hereto. The Assignment contains other terms not herein set forth but which are incorporated by reference herein for all purposes, and this Notice is executed for the purpose of placing parties dealing with the Premises on notice of the existence of the Assignment and, where appropriate, its contents, and shall ratify and confirm all other terms of the Assignment as fully as if the same had been set forth herein. Additional information concerning the terms of the Assignment can be obtained from the parties hereto at the addresses set forth above.

5. This Notice is intended for recording purposes only, and does not modify, supersede, diminish, add to or change all or any of the terms of the Lease (except as modified by the Assignment) or the Assignment in any respect. In the event of any conflict between the provisions of this Notice and the provisions of the Assignment, the provisions of the Assignment shall control.

6. This Notice may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Notice to physically form one document.

(BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, this Notice is executed by each party hereto as of the date first above written.

ASSIGNOR:

GE CAPITAL FRANCHISE FINANCE
CORPORATION, a Delaware corporation

By: [Signature]
Printed Name: Deborah R. Barker
Title: Vice President

ASSIGNEE:

SPIRIT MASTER FUNDING IV, LLC,
a Delaware limited liability company

By: [Signature]
Printed Name: Gregg A. Seibert
Title: Senior Vice President

STATE OF ARIZONA)
) ss.
COUNTY MARICOPA)

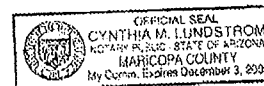
On this 20th day of December, 2007, before me, the undersigned, a Notary Public for the State of Arizona, personally appeared Deborah R. Barker, known to me to be the Vice President of GE Capital Franchise Finance Corporation, a Delaware corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.

Cynthia M. Lundstrom
Notary Public

(SEAL)

My Commission Expires: 12-03-09

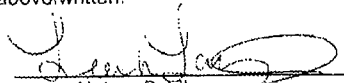


8000-5656
Hamilton, New York

STATE OF ARIZONA)
) ss.
COUNTY MARICOPA)

On this 24th day of December, 2007, before me, the undersigned, a Notary Public for the State of Arizona, personally appeared Gregg A. Seibert, known to me to be the Senior Vice President of Spirit Master Funding IV, LLC, a Delaware limited liability company that executed the within instrument and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.



Notary Public

(SEAL)

My Commission Expires: Apr 13, 2011



EXHIBIT A

LEGAL DESCRIPTION

all THAT TRACT OR PARCEL OF LAND situate in the Village of Hamilton, ~~Town Ham. New~~ County of Madison and State of New York being a portion of Lot #1 in said Town bounded and described as follows: Beginning at a point on the centerline of Utica Street (New York State Route 12B), said point standing at the intersection of the centerline of Utica Street with the northerly boundary of Sidney A. Burgess and Judith A. Burgess (now or formerly) as described in a warranty deed dated July 3, 1962 and filed in the Madison County Clerk's Office in Liber 599 of Deeds at page 46; thence S 74° 23' 25" W. 250.00 feet along the northerly boundary of Burgess to an iron pin, said last mentioned course being further marked by an iron pin standing herein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence N 13° 05' W 100.00 feet to an iron pin; thence N 74° 23' 26" E 250.00 feet to a point on the centerline of Utica Street, said last mentioned course being further marked by an iron pin standing therein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence S 13° 05' E 100.00 feet along the centerline of Utica Street to the point and place of beginning

#8000-5558
V & J National Foods
Hamilton New York

1191-274

Receipt # 74603

Instrument #

No. Pages: 8 11993

Type of Document: EASEMENT
BY: # MAPReturn To: ATTN: SEAN GRAHAM
VILLAGE OF HAMILTON
3 BROAD ST P.O. Box 119
HAMILTON N.Y. 13346

Parties To Transaction:

VILLAGE OF HAMILTON - GRANTEE 34.00
FFCA ACQUISITION CORPORATION - GRANTEE

Mortgage Amt \$ N/A

Mtg Serial # N/A

Basic Mtg Tax \$ N/A

Net Addl Tax \$ N/A

Total Mtg Tax \$ N/A

I hereby certify that I
have received the above
imposed tax paid at the
time of recording.By: _____
Recording Officer Madison County

O PERRY TOOKER III

Madison County Clerks Office

Court Street P O Box 668

Wampsville NY 13163

Location of Property

City:

Village: HAMILTON

Town: HAMILTON

Apportionment: N/A

Consideration \$ 1.00

Rett Amount \$

Rett # 2300

State of New York)

) SS:

County of Madison)

Recorded on 18 day of May
2001 at 125 o'clock P.M.
in Liber 1191 of 274
at page 274

O. Perry Tooker Clerk

This sheet constitutes the Clerk endorsement required by section 116-A (5) for the Real Property law of the State of New York. DO NOT DETACH

(PLEASE TYPE OR PRINT - MUST BE LEGIBLE FOR MICROFILMING)

COVER SHEET (Prepared for all documents to be recorded.)

1191
PG: 274

This instrument prepared by:

Mark A. Johnson, Esq.
FFCA Acquisition Corporation
17207 North Perimeter Drive
Scottsdale, Arizona 85255

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Agreement") is made and entered into as of this 18th day of May, 2001 (the "Effective Date"), by and between FFCA ACQUISITION CORPORATION, a Delaware corporation, whose address is 17207 North Perimeter Drive, Scottsdale, Arizona 85255 ("Grantor"), and the VILLAGE OF HAMILTON, a municipal corporation, whose address is East Broad Street, Hamilton, New York ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of a certain parcel of land located in Hamilton, Madison County, New York ("Grantor's Tract"), being more particularly described on Exhibit A attached hereto and incorporated herein by this reference;

WHEREAS, Grantee has asked Grantor to grant Grantee a certain easement over a portion of Grantor's Tract; and

WHEREAS, Grantor is willing to grant Grantee a non-exclusive utility easement over a portion of Grantor's Tract upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual benefits derived herefrom, the parties agree as follows:

1. Grant of Easement. Grantor grants to Grantee a non-exclusive easement for the purpose of allowing Grantee to construct, operate, repair, maintain, relocate, replace, one or more pipelines and appurtenances for the transportation of sewage and other fluids with free ingress and egress (collectively, the "Improvements"), over, under, across and through a strip of land containing 2,000 square feet, more or less on Grantor's Tract as described as follows and as more particularly illustrated on Exhibit B attached hereto and incorporated herein by this reference:

1191 PG: 276

Beginning at the northeasterly corner of said parcel, thence westerly 20' along the northerly property boundary, thence southerly 100' +/- parallel to the highway R.O.W. of NYS Route 12B, thence easterly 20' along the southerly property boundary, thence northerly along the highway R.O.W. to the point of beginning.

Tract containing approximately 2,000.00 square feet.

(the "Easement Premises").

2. Interference with Business of Grantor. While using the rights granted to Grantee under this Agreement, Grantee shall not unreasonably interfere with the business of Grantor and/or any lessee of Grantor (each, a "Lessee") conducted on Grantor's Tract. Grantee shall not block any of the points of entry or exit from Grantor's Tract or the building located on Grantor's Tract. Grantee shall make a good faith effort to minimize the interruption of any Lessee's business.

3. Construction and Maintenance of the Easement Premises. Grantee shall construct the Improvements on the Easement Premises in a good and workmanlike manner and maintain the same in good and safe condition and repair. Grantee acknowledges that Lessee has a sign utility for the benefit of the Premises and that said sign shall remain in its present location within the Easement Premises, as long as Grantor so desires.

4. Restoration. If Grantee disturbs or damages any of the property or improvements of Grantor in any respect, all such property or improvements disturbed or damaged shall be restored to original condition, at the expense of Grantee. This includes, without limitation, reseeding any grass, replacing any damaged landscaping, repaving any disturbed pavement with equal or better quality pavement, and reinstalling any signs, improvements or personal property located thereon.

5. Indemnification. Grantee shall indemnify, defend and hold Grantor, its Lessees, and their respective employees, agents, invitees, successors and assigns, harmless for, from and against any and all losses, costs, damages, expenses (including attorneys' fees), or actions (including damages to property, or injuries or death) resulting from Grantee's use of the above-described easement; provided, however, Grantee shall not be required to indemnify Grantor or its successors or assigns from any liability, loss, cost, damage, expense, or action to the extent the same results solely from the negligence, fault, act or omission of Grantor, its Lessee, or their respective directors, officers, employees or representatives.

6. Running of Benefits and Burdens. This Easement shall be deemed to be a covenant running with the title to the land and shall be binding upon the parties hereto and upon their heirs, successors and assigns.

1191-277

7. No Encumbrance: Neither Grantee nor its successors or assigns, nor anyone claiming by, through or under Grantee and its successors and assigns shall have the right to file or place any mechanic's lien or other lien of any kind or character whatsoever upon the Easement Premises, and notice is hereby given that no contractor, subcontractor or anyone else who may furnish any material, service or labor for any improvement to the Easement Premises shall at anytime be or become entitled to any lien on the Easement Premises.

8. Severability. In the event any provision of this Agreement or the application of this Agreement to any real property, party to this Agreement or any other person shall be held to be invalid, void, or illegal, the remaining provisions shall nonetheless remain in full force and effect and not be affected by such invalidity or illegality.

9. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

10. Notices. All notices, demands or requests given under this Agreement must be in writing and shall be deemed to have been properly given when personally served or deposited in the United States mail, addressed to Grantor or Grantee, as the case may be, prepaid and certified mail, return receipt requested, at the addresses above or such other address as may be given to the other party in like manner.

11. Waiver. The failure to enforce any breach or violation of any of the covenants, easements or conditions herein contained shall not be deemed to be a waiver of the right to enforce, or be deemed an abandonment of a particular covenant, easement or condition, regardless of whether any person affected thereby had knowledge of the breach or violation.

12. Entire Agreement. This Agreement is intended by the parties to be the final expression of their agreement and constitutes and embodies the entire agreement and understanding between the parties with regard to the subject matter hereof and shall supersede any and all prior oral or written communications, negotiations, agreements and understandings relating to the same subject matter.

DATED as of the day and year first above written.

GRANTOR:

FFCA ACQUISITION CORPORATION,
a Delaware corporation

By: 

Harold W. Vinson
Senior Vice President

1191-278

GRANTEE:

VILLIAGE OF HAMILTON, a municipal corporation

By: [Signature]
Printed Name: Dan C. [Signature]
Its: Village Administrator

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS.

On the 14th day of May, 2001, before me personally came Harold W. Vinson, to me known, who being by me duly sworn did depose and say that he resides at 17207 North Perimeter Drive, Scottsdale, Arizona, that he is a Senior Vice President of FFCA Acquisition Corporation, a Delaware corporation, the corporation described in and which executed the above instrument; and that he signed his name thereto by authority of the board of directors of said corporation.

[Signature]
Notary Public

My Commission Expires:

July 17, 2002



1191
pg 279

STATE OF NEW YORK) SS:
COUNTY OF Madison)

ON 4.19.2001, BEFORE ME, THE UNDERSIGNED NOTARY
PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED Paul C. Koque
PERSONALLY KNOWN TO ME OR PROVED TO ME ON THE BASIS OF
SATISFACTORY EVIDENCE TO BE THE INDIVIDUAL (S) WHOSE NAME IS
(ARE) SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED
TO ME THE HE/SHE THEY EXECUTED THE SAME IN HIS/HER/THEIR
CAPACITY (IES). AND THAT BY HIS/~~HER~~/THEIR/ SIGNATURE (S) ON THE
INSTRUMENT, THE INDIVIDAL (S), OR THE PERSON UPON BEHALF OF
WHICH THE INDIVIDUAL (S) ACTED, EXECUTED THE INSTRUMENT.

Ronda H. Winn

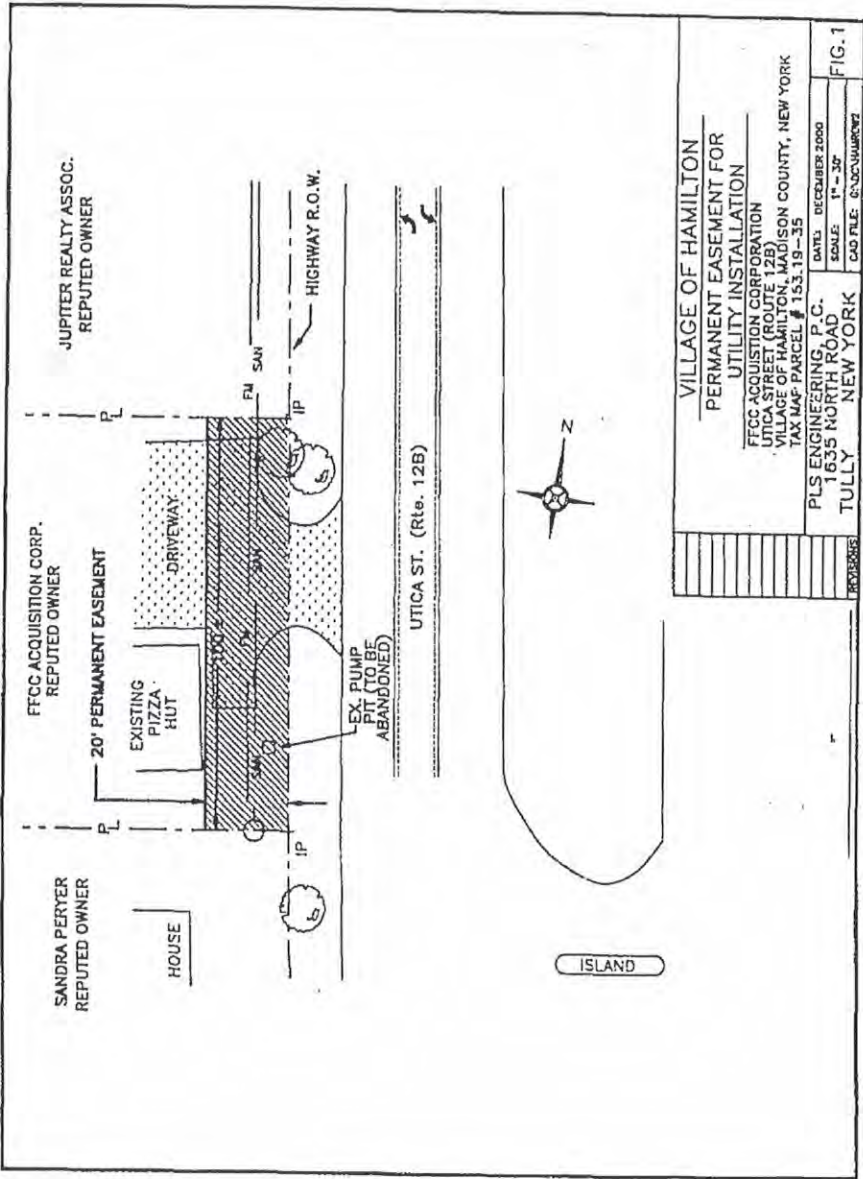
RONDA H. WINN
Notary Public, State of New York
No. 01W14843760
Qualified in Madison County
Commission Expires Jan. 31, 2002.

EXHIBIT A

all THAT TRACT OR PARCEL OF LAND situate in the Village of Hamilton, County of Madison and State of New York being a portion of Lot #1 in said Town bounded and described as follows: Beginning at a point on the centerline of Utica Street (New York State Route 12E), said point standing at the intersection of the centerline of Utica Street with the northerly boundary of Sidney A. Burgess and Judith A. Burgess (now or formerly) as described in a warranty deed dated July 3, 1962 and filed in the Madison County Clerk's Office in Liber 599 of Deeds at page 46; thence S 74° 23' 26" W, 250.00 feet along the northerly boundary of Burgess to an iron pin, said last mentioned course being further marked by an iron pin standing herein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence N 13° 05' W 100.00 feet to an iron pin; thence N 74° 23' 26" E 250.00 feet to a point on the centerline of Utica Street, said last mentioned course being further marked by an iron pin standing therein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence S 13° 05' E 100.00 feet along the centerline of Utica Street to the point and place of beginning.

1191-280

EXHIBIT B



VILLAGE OF HAMILTON
PERMANENT EASEMENT FOR
UTILITY INSTALLATION

FFCC ACQUISITION CORPORATION
UTICA STREET (ROUTE 12B)
VILLAGE OF HAMILTON, MADISON COUNTY, NEW YORK
TAX MAP PARCEL # 153.19-35

DATE: DECEMBER 2000	FIG. 1
SCALE: 1" = 30'	
CAD FILE: 6700000002	
PLS ENGINEERING, P.C. 1635 NORTH ROAD TULLY, NEW YORK	

1191 PG: 281

T-53
38-50
61418

FORM 583X N. Y. DEED—WARRANTY with Lien Covenant

TUTTLE LAMX REGISTERED U. S. PAT. OFFICE
TUTTLE LAW PRINT. PUBLISHERS SYRACUSE, N. Y. 13208

This Indenture

Made the 5th day of April
Nineteen Hundred and Seventy-eight

Between JAMES ZELLER, residing at Crescent Avenue, Oneida,
New York,

party of the first part, and

PIZZA HUT OF NORTH HAVEN, INC., 10225 East Kellogg,
Wichita, Kansas

Witnesseth that the party of the first part, party of the second part,
in consideration of

-----ONE----- Dollar (\$ 1.00)
lawful money of the United States, and other good and valuable consideration
paid by the party of the second part, do hereby grant and release unto the
party of the second part, their successors
and assigns forever, all THAT TRACT OR PARCEL OF LAND situate in the
Village of Hamilton, County of Madison and State of New York being
a portion of Lot #1 in said Town bounded and described as follows:
Beginning at a point on the centerline of Utica Street (New York
State Route 12B), said point standing at the intersection of the
centerline of Utica Street with the northerly boundary of Sidney A.
Burgess and Judith A. Burgess (now or formerly) as described in a
warranty deed dated July 3, 1962 and filed in the Madison County
Clerk's Office in Liber 599 of Deeds at page 46; thence S 74° 23'
26" W. 250.00 feet along the northerly boundary of Burgess to an iron
pin, said last mentioned course being further marked by an iron pin
standing herein distant 24.78 feet westerly as measured from the
centerline of Utica Street; thence N 13° 05' W 100.00 feet to an
iron pin; thence N 74° 23' 26" E 250.00 feet to a point on the
centerline of Utica Street, said last mentioned course being further
marked by an iron pin standing therein distant 24.78 feet westerly
as measured from the centerline of Utica Street; thence S 13° 05' E
100.00 feet along the centerline of Utica Street to the point and
place of beginning containing .57 acres of land more or less.

EXCEPTING AND RESERVING that portion of the above described
premises used for highway purposes.

ALSO EXCEPTING AND RESERVING from the above described premises

Being the same premises conveyed by Mary Jaquay to James Zeller by warranty deed dated February 17, 1978 and recorded in the Madison County Clerk's Office, March 31, 1978 in Liber of 705.

Deeds at page 221. [The rest of the page contains extremely faint, illegible text.]

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

To have and to hold the premises herein granted unto the party of the second part, its successors and assigns and assigns forever.

And said party of the first part

First. That the party of the second part shall quietly enjoy the said premises; covenant as follows:


Second. That said party of the first part

will forever Warrant the title to said premises.

Third. That, in Compliance with Sec. 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the party of the first part has hereunto set his hand and seal the day and year first above written.

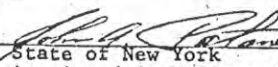
In Presence of



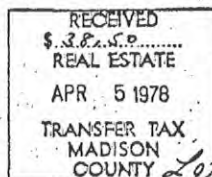
State of New York } On this 5th day of April
County of MADISON } ss. Nineteen Hundred and Seventy-eight
before me, the subscriber, personally appeared

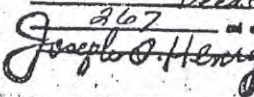
JAMES ZELLER

to me personally known and known to me to be the same person described in and
who executed the within Instrument, and he acknowledged
to me that he executed the same.


State of New York Notary Public
Appointed in Madison County
My Commission expires 3/30/79

1854



State of New York }
Madison County } ss.
Notary's Office }
Recorded on the 5th day of April
1978 at 2:05 PM
in the 205th
Deeds of Madison
County


Madison County
Kenneth J. Kunkel Jr.
County Clerk
Wampsville, New York

Book: 2371 Page: 214

Document Number: 2008- 00000160 Document Type: Mortgage
Recorded Date: 01/09/2008

Parties: SPIRIT MASTER FUNDING IV LLC
CITIBANK NA
Comment: ALLIED TS
Recorded By: CLOSING USA LLC

Pages Charged: 26
Pages Scanned: 27

**** Examined and Charged as Follows ****

Mortgage	103.00
Coversheet	3.00
Recording Fee:	106.00

	<u>Town</u>	<u>Serial #</u>	<u>Consideration</u>
Tax-Mortgage	2,325.00 HAMILTON	CY 2458	310,000.00
Basic	1,550.00		
Additional	0.00		
Special Additional	775.00		
Transfer	0.00		
Tax Fee:	2,325.00		

**** DO NOT REMOVE ****

**** This Page is Part of the Document ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office for:

File Information
Document Number: 2008- 00000160
Recorded Date: 01/09/2008 11:21 A
Receipt Number: 77726

Mail Back
CLOSING USA LLC
250 MILE CROSSING BLVD
STE 4
ROCHESTER NY 14624-



A handwritten signature in black ink, reading "Kenneth J. Kunkel Jr.", is written over a horizontal line.

Kenneth J Kunkel Jr.
County Clerk

PREPARED BY AND TO BE RETURNED TO:

Kutak Rock LLP
780 California Street, Suite 3100
Denver, Colorado 80202
Attn: Nathan P. Humphrey Esq.

When recorded mail to:
LandAmerica Financial Services, Inc.
Attn: *K. Brown*
1850 N. Central Avenue, Suite 300
Phoenix, AZ 85004
Lecrow No. 07-54237

**MORTGAGE, ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (this "Mortgage") is made as of the 21 day of December, 2007, by SPIRIT MASTER FUNDING IV, LLC, a Delaware limited liability company (sometimes referred to herein as "Borrower" or "Grantor"), whose address is 14631 N. Scottsdale Road, Suite 200, Scottsdale, Arizona 85254-2711, to and for the benefit of CITIBANK, N.A., whose address is 388 Greenwich Street, Floor 14, New York, New York 10013, in its capacity as collateral agent (referred to herein as the "Collateral Agent") for the Noteholders (as defined below) (any such Noteholders and its respective successors and assigns shall be referred to herein as the "Lender").

PRELIMINARY STATEMENT:

The capitalized terms used in this Mortgage, if not elsewhere defined in the first paragraph above or in Article I of this Mortgage shall have the meaning given such terms in the Collateral Agency Agreement. Borrower holds the fee simple interest in the Mortgaged Property, subject to the Permitted Exceptions. Borrower is executing this Mortgage for the purpose of granting all of the interest of Borrower in and to the Mortgaged Property (as defined in the Granting Clauses below) as security for the payment of the Obligations including, without limitation, repayment of all amounts due under the Note (as such Note, together with any amendments thereto, may be extended, restated or otherwise modified as provided therein). The Mortgaged Property shall be and remain subject to the lien of this Mortgage and shall constitute security for the Obligations so long as the Obligations shall remain outstanding.

THIS DOCUMENT IS ALSO A FINANCING STATEMENT FILED AS A FIXTURE FILING AND SHOULD BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER THE NAMES OF THE BORROWER AS DEBTOR, AND THE COLLATERAL AGENT, AS SECURED PARTY.

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Spirit-GEN
197 Liberty Street, Hamilton, NY 12016
6452002-1012

GRANTING CLAUSES:

Borrower, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by these presents does hereby create a security interest in, mortgage, grant, bargain, sell, assign, pledge, give, transfer, set over and convey unto the Lender and to its successors and assigns WITH POWER OF SALE AND RIGHT OF ENTRY, for the benefit and security of the Collateral Agent as agent for the Lender, and its successors and assigns, all of Borrower's estate, right, title and interest in, to and under the Land (hereinafter defined), the Improvements (hereinafter defined) and any and all of the following property (together with the Land and the Improvements, collectively the "Mortgaged Property"), whether now owned or hereafter acquired, subject only to the Permitted Exceptions:

Mortgaged Property, Rents and Derivative Interests

All rents, issues, profits, royalties, income and other benefits derived by Borrower from the property comprising the Mortgaged Property and the Personal Property (as defined below) or any portion thereof and any and all lump-sum payments made in connection with the early termination of any Lease (collectively, the "Rents"); all leases or subleases covering the Mortgaged Property and the Personal Property or any portion thereof now or hereafter existing or entered into (collectively, "Leases" and individually, a "Lease"), including, without limitation, all cash or security deposits, advance rentals and deposits or payments of similar nature and all guaranties relating to the Leases; all options to purchase or lease the Mortgaged Property and the Personal Property or any portion thereof or interest therein, and any greater estate in the Mortgaged Property; all interests, estate or other claims, both in law and in equity, with respect to the Mortgaged Property and the Personal Property or any portion thereof; all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and therein, and all water rights and shares of stock evidencing the same; all land lying within the right-of-way of any street, open or proposed, adjoining the Mortgaged Property and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Mortgaged Property;

Personal Property

All tangible personal property owned by the Borrower and now or at any time hereafter located on or at the Mortgaged Property or used in connection therewith, including, without limitation, all machinery, appliances, furniture, equipment and inventory (the "Personal Property"), but excluding any Personal Property owned by the Lessee under any Lease other than as pledged as security under such Lease;

Intangibles

All existing and future accounts, contract rights, including, without limitation, with respect to equipment leases, general intangibles, files, books of account, agreements, franchise, license and/or area development agreements, distributor agreements, indemnity agreements, permits, licenses and certificates necessary or desirable in connection with the acquisition, ownership, leasing, construction, operation, servicing or management of the property comprising the Mortgaged Property or any portion thereof, whether now existing or entered into or obtained after the date hereof, all existing and future names under or by which the property comprising the Mortgaged Property and the Personal Property or any portion thereof may at any time be operated or known, all rights to carry on business under any such names or any variant thereof, and all existing and future telephone numbers and listings, advertising and marketing materials, trademarks and good will in any way relating to the property comprising the Mortgaged Property or any portion thereof; and

Claims and Awards

All the claims or demands with respect to the Mortgaged Property or any portion thereof, including, without limitation, claims or demands with respect to the proceeds of insurance in effect with respect thereto, claims under any indemnity agreement, including, without limitation, any indemnity agreement executed for the benefit of the Mortgaged Property or any portion thereof with respect to Hazardous Materials or USTs, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Mortgaged Property and the Personal Property, including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages.

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The Mortgaged Property shall include all products and proceeds of the foregoing property.

TO HAVE AND TO HOLD the Mortgaged Property hereby granted or mortgaged or intended to be granted or mortgaged, unto Collateral Agent as agent for the Lender, and its successors and assigns, upon the terms, provisions and conditions set forth herein.

THIS MORTGAGE SHALL SECURE THE FOLLOWING INDEBTEDNESS AND OBLIGATIONS (the "Obligations"):

- (i) Payment of indebtedness evidenced by the Primary Note together with all extensions, renewals, amendments and modifications thereof;
- (ii) Payment of all other indebtedness and other sums, with interest thereon, which may be owed under, and performance of all other obligations and covenants contained in the Loan Documents, together with any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby or thereby; and
- (iii) Payment of all indebtedness and other sums, with interest thereon, which may be owed under, and performance of all other obligations under any Loan Agreement and any other Note in addition to the Primary Note contemplated in (i) above, including, without limitation all Loans and Notes issued under an Indenture from time to time.

It is the intention of the parties hereto that the Mortgaged Property shall secure all of the Obligations presently or hereafter owed, and that the priority of the security interest created by this Mortgage for all such Obligations shall be first priority and controlled by the time of proper recording of this Mortgage and shall perfect all additional amounts funded under any Loan Agreement as a future obligatory advance. In addition, this Mortgage shall also secure unpaid balances of advances made (1) under any Indenture or other Loan Agreement for payment of any fees and expenses of the Indenture Trustee or Lender otherwise in connection with the obligations of the Borrower's obligations under the Indenture or other Loan Agreement, (2) with respect to the Mortgaged Property for the payment of taxes, assessments, insurance premiums, costs or any other advances incurred for the protection of the Mortgaged Property, together with interest thereon until paid at the Default Rate, all as contemplated in this Mortgage, (3) under the terms of the Collateral Agency Agreement, all of which shall constitute a part of the Obligations secured hereby. This paragraph shall serve as notice to all persons who may seek or obtain a lien on the Mortgaged Property subsequent to the date of recording of this Mortgage, that until this Mortgage is released, any debt owed to the Lender by Borrower, including advances and re-advances made under a Loan Agreement subsequent to the recording of this Mortgage, shall be secured with the priority afforded this Mortgage as recorded.

The Loan may not be prepaid in whole or in part except as provided under the terms of the applicable Note and/or Loan Agreement. This Mortgage secures the amount of the Primary Note, however, the value of the Trust Estate covered by this Mortgage for title insurance purposes as of the date hereof is limited to \$310,000.00

WHEREAS, THE MAXIMUM PRINCIPAL AMOUNT OF THE OBLIGATIONS SECURED BY THIS SECURITY INSTRUMENT AT EXECUTION OR WHICH MAY BE SECURED AT ANY TIME IN THE FUTURE UNDER ANY CONTINGENCY IS 100%, provided, that the foregoing limitation shall apply only to the lien upon the Mortgaged Property created by this Security Instrument, and it shall not in any manner limit, affect or impair any grant of a security interest or other right in favor of the Mortgagee under the provisions of the Loan Agreement or under any other security agreement at any time executed by Mortgagor, and further provided, that the limitation shall not limit the security of this Security Instrument with respect to interest on such obligations at the rates set forth in the Loan Agreement, sums to pay real estate taxes and insurance premiums, and attorneys' fees and costs with respect to the Mortgaged Property (as defined herein);

IT IS HEREBY COVENANTED, DECLARED AND AGREED that the Note and the other Loan Documents are to be executed, delivered and secured and that the Mortgaged Property is to be held and disposed of by the Collateral Agent, upon and subject to the provisions of this Mortgage and the Collateral Agency Agreement.

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ARTICLE I

DEFINED TERMS

Section 1.01, *Incorporation of Other Definitions*. Capitalized terms used in this Mortgage, if not elsewhere parenthetically defined in the preamble hereto or Section 1.02 of this Mortgage, shall have the meaning given such terms in the Collateral Agency Agreement or, if no meaning is given to such terms in the Collateral Agency Agreement, in the Loan Agreement.

Section 1.02, *Definitions*. Unless the context otherwise specifies or requires, the following terms shall have the meanings specified (such definitions to be applicable equally to singular and plural nouns and verbs of any tense).

"*Collateral Agency Agreement*" means the Collateral Agency Agreement, dated as of March 29, 2007, among the Collateral Agent, Spirit Finance Corporation and certain other parties, as the same may be amended, assigned or restated from time to time.

"*Event of Default*" has the meaning set forth in Section 6.01.

"*Improvements*" means all buildings, fixtures and other improvements now or hereafter located on the Land (whether or not affixed to the Land).

"*Indemnified Parties*" means the Lender (and any agent of the Lender and the Collateral Agent) (and after the date of any Notice of Assignment (as defined in the Collateral Agency Agreement) delivered pursuant to the Collateral Agency Agreement, the Indenture Trustee, if any, and any person or entity who is or will have been involved in the origination of the Loan, any person or entity who is or will have been involved in the servicing of the Loan, any person or entity in whose name the encumbrance created by this Mortgage is or will have been recorded, persons and entities who may hold or acquire or will have held a full or partial interest in the Loan, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Loan for the benefit of third parties), as well as the respective directors, officers, shareholders, partners, members, employees, lenders, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including but not limited to any other person or entity who holds or acquires or will have held a participation or other full or partial interest in the Loan or the Mortgaged Property, whether during the term of the Loan or as a part of or following a foreclosure of the Loan and including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of Collateral Agent's or the Lender's assets and business).

"*Indenture*" means, collectively, one or more base indentures between Borrower and an Indenture Trustee, and including any supplemental indentures thereto, evidencing a Loan for the benefit of the Lender.

"*Indenture Trustee*" means an indenture trustee serving in such capacity under the terms of an Indenture.

"*Land*" means the parcel or parcels of real estate legally described in Exhibit A attached hereto, and all rights, privileges and appurtenances therewith.

"*Lease*" and "*Leases*" have the meaning set forth in the Granting Clause.

"*Loan*" means, collectively, the loans evidenced by the Primary Note and together with the loans made from time to time by a Lender to Borrower under the terms of a Loan Agreement and which are evidenced by a Note and secured by this Mortgage under the terms of any cross-collateralization provisions in such Loan Agreement.

"*Loan Agreement*" means, the Amended and Restated Master Loan Agreement dated August 1, 2007 between Spirit Master Funding IV, LLC and Spirit SPE Warehouse Funding, LLC, as amended and/or restated from time to time and, after the date of any Notice of Assignment delivered pursuant to the Collateral Agency Agreement, and any and all Indentures between the Grantor and an Indenture Trustee for the benefit of the Lender, pursuant to

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which the Indenture Lender has agreed to make loans and/or loan advances to Grantor for the financing by Grantor of the Trust Estate and other commercial real estate owned by Grantor identified in any Loan Agreement secured hereby, including, without limitation, after the date of such Notice of Assignment (i) certain loans and loan agreements entered into from time to time by and between the Grantor, as borrower, and an affiliate of Grantor (or such affiliate's predecessor holder of such loans), as Lender, and (ii) certain loan notes and loan advances made from time to time and issued by Grantor under one or more Indentures

"*Loan Documents*" means the Loan Agreement, Primary Note, this Mortgage and any other document or instrument evidencing or securing the Primary Note.

"*Losses*" has the meaning set forth in Section 7.09.

"*Mortgaged Property*" has the meaning set forth in the Granting Clause.

"*Net Award*" has the meaning set forth in Section 4.01(b)(v).

"*Net Insurance Proceeds*" has the meaning set forth in Section 4.01(s)(iii).

"*Note*" means, collectively, the Primary Note and all other promissory notes issued from time to time and delivered by Borrower to or for the benefit of the Lender or its designee pursuant to a Loan Agreement and evidencing the Obligations secured by this Mortgage, and any amendments, extensions or modifications thereof.

"*Nonholder*" has the meaning set forth in the Collateral Agency Agreement.

"*Notices*" has the meaning set forth in Section 7.04.

"*Obligations*" has the meaning set forth in the Granting Clauses.

"*Outstanding Obligations*" means the sum of the outstanding principal balance of the Note and any other amounts due under the Obligations secured under this Mortgage, all accrued but unpaid interest on the Note, all other sums due under any Note, Loan Agreement and Indenture, all sums advanced by Collateral Agent under this Mortgage and all other sums due and payable under this Mortgage and the other Loan Documents corresponding to the Mortgaged Property.

"*Partial Taking*" has the meaning set forth in Section 4.01(b)(ii).

"*Personal Property*" has the meaning set forth in the Granting Clause.

"*Primary Note*" means the Master Note as defined in the Loan Agreement, as the same may be amended, assigned, restated, consolidated, extended or otherwise modified from time to time.

"*Prohibited Transaction*" has the meaning set forth in Section 3.08.

"*Recordable Documents*" has the meaning set forth in Section 3.01.

"*Rents*" has the meaning set forth in the Granting Clause.

"*Restoration*" means the restoration, replacement or rebuilding of the Mortgaged Property, or any part thereof, as nearly as possible to its value, condition and character immediately prior to any damage, destruction or Taking.

"*State*" means the State in which the Land is located.

"*Taking*" has the meaning set forth in Section 4.01(b)(i).

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"Total Taking" has the meaning set forth in Section 4.01(b)(ii).

"LCC" has the meaning set forth in Section 6.02(iii).

ARTICLE II

INCORPORATION OF REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER

The representations, warranties and covenants of Borrower set forth in any Note, Loan Agreement and Indenture are incorporated by reference into this Mortgage as if stated in full in this Mortgage. All representations and warranties as incorporated herein shall be deemed to have been made as of the date of this Mortgage and all representations, warranties and covenants incorporated herein shall survive the execution and delivery of this Mortgage.

ARTICLE III

COVENANTS OF BORROWER

In addition to any covenants of Borrower set forth in any Note, Loan Agreement, Indenture or any other Loan Document, Borrower hereby covenants to Collateral Agent and agrees as follows until the Obligations are satisfied in full:

Section 3.01. *Recording.* Borrower shall, upon the execution and delivery hereof and thereafter from time to time, take such actions as Collateral Agent may request to cause this Mortgage, each supplement and amendment to such instrument and financing statements with respect thereto and each instrument of further assurance (collectively, the "Recordable Documents") to be filed, registered and recorded as may be required by law to publish notice and maintain the first lien or security interest, as applicable, hereof upon the Mortgaged Property and to publish notice of and protect the validity of the Recordable Documents. Borrower shall, from time to time, perform or cause to be performed any other act and shall execute or cause to be executed any and all further instruments (including financing statements, continuation statements and similar statements with respect to any of said documents) requested by Collateral Agent for carrying out the intention of, or facilitating the performance of, this Mortgage. Collateral Agent shall be and is hereby irrevocably appointed the agent and attorney-in-fact of Borrower to comply therewith (including the execution, delivery and filing of such financing statements and other instruments), which appointment is coupled with an interest; provided, however, Collateral Agent shall not exercise such power of attorney unless Borrower has first failed to comply with this Section, and provided, further, that this sentence shall not prevent any default in the observance of this Section from constituting an Event of Default. To the extent permitted by law, Borrower shall pay or cause to be paid recording taxes and fees incident thereto and all expenses, taxes and other governmental charges incident to or in connection with the preparation, execution, delivery or acknowledgment of the Recordable Documents, any instruments of further assurance and the Note.

Section 3.02. *Use; Maintenance and Repair; Leases.* The Mortgaged Property shall be used solely as contemplated in the Lease. Borrower shall not, and shall not permit any lessee under any Lease, to convert the Mortgaged Property to an alternative use while this Mortgage is in effect without Collateral Agent's consent, which consent shall not be unreasonably withheld. Collateral Agent may consider any or all of the following in determining whether to grant its consent, without being deemed to be unreasonable: (i) whether the converted use will be consistent with the highest and best use of the Mortgaged Property, and (ii) whether the converted use will increase Collateral Agent's risks or decrease the value of the Mortgaged Property. Borrower shall comply with the Loan Documents in connection with any Lease and, if prohibited by the Loan Documents, shall not (i) enter into any Leases without Collateral Agent's prior written consent; (ii) modify or amend the terms of any Lease without Collateral Agent's prior written consent; (iii) grant any consents under any Lease, including, without limitation, any consent to an assignment of any Lease, a mortgaging of the leasehold estate created by any Lease or a subletting by the lessee under any Lease, without Collateral Agent's prior written consent; (iv) terminate, cancel, surrender, or accept the surrender of, any Lease, or waive or release any person from the observance or performance of any obligation to be performed under the terms of any Lease or liability on account of any warranty given thereunder, without Collateral Agent's prior written consent; or (v) assign, transfer, mortgage, pledge or hypothecate any Lease

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or any interest therein to any party other than Collateral Agent, without Collateral Agent's prior written consent. Any lease, modification, amendment, grant, termination, cancellation, surrender, waiver or release in violation of the foregoing provision shall be null and void and of no force and effect. Unless Collateral Agent otherwise consents or elects, Borrower's title to the Mortgaged Property and the leasehold interest in the Mortgaged Property created by any Lease shall not merge, but shall always be kept separate and distinct, notwithstanding the union of such estates in Borrower, Collateral Agent or any other person by purchase, operation of law, foreclosure of this Mortgage, sale of the Mortgaged Property pursuant to this Mortgage or otherwise. Borrower shall (i) fulfill, perform and observe in all respects each and every condition and covenant of Borrower contained in any Lease; (ii) give prompt notice to Collateral Agent of any claim or event of default under any Lease given to or by Borrower, together with a complete copy or statement of any information submitted or referenced in support of such claim or event of default; (iii) at the sole cost and expense of Borrower, enforce the performance and observance of each and every covenant and condition of any Lease to be performed or observed by any other party thereto, unless such enforcement is waived in writing by Collateral Agent; (iv) appear in and defend any action challenging the validity, enforceability or priority of the lien created hereby or the validity or enforceability of any Lease; and (v) hold that portion of the Rents which is sufficient to discharge all current sums due under the Note for use in the payment of such sums.

Section 3.03. After-Acquired Property. All right, title and interest of Borrower in and to all improvements, alterations, substitutions, restorations and replacements of, and all additions and appurtenances to, the Mortgaged Property, hereafter acquired by or released to Borrower, immediately upon such acquisition or release and without any further granting by Borrower, shall become part of the Mortgaged Property and shall be subject to the lien hereof fully, completely and with the same effect as though now owned by Borrower and specifically described in the Granting Clauses hereof. Borrower shall execute and deliver to Collateral Agent any further assurances, mortgages, grants, conveyances or assignments thereof as the Collateral Agent may reasonably require to subject the same to the lien hereof.

Section 3.04. Taxes, Assessments, Charges and Other Impositions. (a) Borrower shall do or cause to be done everything necessary to preserve the lien hereof without expense to Collateral Agent, including, without limitation, enforcing the payment obligations of the lessee under the Lease. Borrower shall pay or cause to be paid prior to delinquency any and all taxes, assessments, water and sewer charges, and other charges now or hereafter assessed against the Mortgaged Property.

(b) Borrower may, at its own expense, contest or cause to be contested, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any item specified in subsection (a) or lien therefor, provided that (i) Borrower shall provide written notice to Collateral Agent of any contest involving more than \$10,000.00, (ii) such proceeding shall suspend the collection thereof from the Mortgaged Property or any interest therein, (iii) neither the Mortgaged Property nor any interest therein would be in any danger of being sold, forfeited or lost by reason of such proceedings, (iv) no Event of Default has occurred and is continuing, and (v) Borrower shall have deposited with Collateral Agent adequate reserves for the payment of the taxes, together with all interest and penalties thereon, unless paid in full under protest, or Borrower shall have furnished the security as may be required in the proceeding or as may be required by Collateral Agent to insure payment of any contested taxes.

Section 3.05. Insurance. Borrower shall maintain, with respect to the Mortgaged Property, at its sole expense, or cause the lessee under the Lease to maintain at such lessee's expense, the types and amounts of insurance required by the Lease.

Section 3.06. Impound Account. Upon the occurrence of an Event of Default under this Mortgage or any other Loan Document, Collateral Agent may require Borrower to pay to Collateral Agent sums which will provide an impound account (which shall not be deemed a trust fund) for paying up to the next one year of taxes, assessments and/or insurance premiums. Upon such requirement, Collateral Agent will estimate the amounts needed for such purposes and will notify Borrower to pay the same to Collateral Agent in equal monthly installments, as nearly as practicable, in addition to all other sums due under this Mortgage. Should additional funds be required at any time, Borrower shall pay the same to Collateral Agent on demand. Borrower shall advise Collateral Agent of all taxes and insurance bills which are due and shall cooperate fully with Collateral Agent in assuring that the same are paid. Collateral Agent may deposit all impounded funds in accounts insured by any

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federal or state agency and may commingle such funds with other funds and accounts of Collateral Agent. Interest or other gains from such funds, if any, shall be the sole property of Collateral Agent. If an Event of Default shall occur subsequent to Collateral Agent requiring the establishment of an impound account pursuant to this Section, Collateral Agent may apply all impounded funds against any sums due from Borrower to Collateral Agent. Collateral Agent shall give to Borrower upon request an annual accounting showing all credits and debits to and from such impounded funds received from Borrower.

Section 3.07. Advances by the Lender or Collateral Agent. If the Borrower fails to perform any covenant of the Borrower contained herein, the Lender or Collateral Agent may make advances to perform any of the covenants contained in this Mortgage on Borrower's behalf and all sums so advanced (and all sums advanced pursuant to any other provision hereof) by the Lender or Collateral Agent shall be secured hereby. Borrower shall repay on demand all sums so advanced with interest thereon at the Default Rate, if any, provided for in the Loan Agreement, such interest to be computed from and including the date of the making of such advance to and including the date of such repayment, and at Collateral Agent's election, the Lender or Collateral Agent may add the amount of such advance to the principal balance of the Primary Note secured by this Mortgage.

Section 3.08. Negative Covenants. Without limiting the terms and conditions of Section 5.2 of the Loan Agreement, Borrower agrees that Borrower shall not, without the prior written consent of Collateral Agent (such a "Prohibited Transaction"), sell, convey, mortgage, grant, bargain, encumber, pledge, assign, or otherwise transfer the Mortgaged Property or any part thereof or permit the Mortgaged Property or any part thereof to be sold, conveyed, mortgaged, granted, bargained, encumbered, pledged, assigned, or otherwise transferred, other than sales from inventory in the ordinary course of business and the replacement of obsolete Personal Property. A sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer within the meaning of this Section shall be deemed to include, but not limited to, (a) an installment sales agreement wherein Borrower agrees to sell the Mortgaged Property or any part thereof for a price to be paid in installments, and (b) an agreement by Borrower leasing all or any part of the Mortgaged Property (other than the Lease) or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Lease or any Rents.

Collateral Agent's consent to a Prohibited Transaction shall be subject to the satisfaction of such conditions as Collateral Agent shall determine in its sole discretion, including, without limitation, (i) Borrower having executed and delivered such modifications to the terms of this Mortgage and the other Loan Documents as Collateral Agent shall request, and (ii) the proposed transferee having assumed the Note, this Mortgage and the other Loan Documents (as modified pursuant to clause (i) above). Collateral Agent shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Obligations immediately due and payable upon Borrower's sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Mortgaged Property without Collateral Agent's consent, as required hereunder. The provisions of this Section shall apply to every sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Mortgaged Property regardless of whether voluntary or not, or whether or not Collateral Agent has consented to any previous sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Mortgaged Property.

Section 3.09. Priority of Loan Agreement. In the event that any Loan Agreement provides for any covenants or requirements that are inconsistent with the provisions of this Article III, the Loan Agreement provisions shall control.

ARTICLE IV

POSSESSION, USE AND RELEASE OF THE MORTGAGED PROPERTY

Section 4.01. Casualty or Condemnation. Borrower, immediately upon obtaining knowledge of any casualty to any portion of the Mortgaged Property or of any proceeding or negotiation for the taking of all or any portion of the Mortgaged Property in condemnation or other eminent domain proceedings, shall notify Collateral Agent of such casualty, proceeding or negotiation. Unless Borrower is required under the Lease to restore the Mortgaged Property or pay any Proceeds (defined below) to the Lessee under the Lease, any award, compensation or other payment resulting from such casualty or condemnation or eminent domain proceeding, as applicable, shall be

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applied as set forth below (the "Proceeds"). If Borrower is required under the terms of the Lease to restore the Mortgaged Property or pay any Proceeds to the lessee under the Lease, the Proceeds shall be applied as provided in the Lease. Collateral Agent may participate in any condemnation or eminent domain proceeding, and Borrower will deliver or cause to be delivered to Collateral Agent all instruments reasonably requested by Collateral Agent to permit such participation.

(a) *Casualty.* (i) In the event of any material damage to or destruction of the Mortgaged Property or any part thereof, Borrower will promptly give written notice to Collateral Agent, generally describing the nature and extent of such damage or destruction. No damage to or destruction of the Mortgaged Property shall relieve Borrower of its obligation to pay any monetary sum due under the Loan Documents at the time and in the manner provided in the Loan Documents.

(ii) In the event of any damage to or destruction of the Mortgaged Property or any part thereof, Borrower, whether or not the Proceeds, if any, on account of such damage or destruction shall be sufficient for the purpose, at its expense, shall promptly cause the Restoration to be commenced and completed.

(iii) Proceeds received by Collateral Agent and Borrower on account of any occurrence of damage to or destruction of the Mortgaged Property or any part thereof, less the costs, fees and expenses incurred by Collateral Agent and Borrower in the collection thereof, including, without limitation, adjuster's fees and expenses and attorneys' fees and expenses (the "Net Insurance Proceeds"), shall be paid to (1) Borrower, if the amount of such Net Insurance Proceeds is less than \$50,000 and applied by Borrower toward the cost of the Restoration; and (2) Collateral Agent, if the amount of such Net Insurance Proceeds is \$50,000 or greater. Provided that no Event of Default is continuing, Net Insurance Proceeds paid to Collateral Agent shall be held and disbursed by Collateral Agent, or as Collateral Agent may from time to time direct, as the Restoration progresses, to pay or reimburse Borrower for the cost of the Restoration, upon written request of Borrower accompanied by evidence, reasonably satisfactory to Collateral Agent, that (aa) the Restoration is in full compliance with all Applicable Regulations and all private restrictions and requirements, (bb) the amount requested has been paid or is then due and payable and is properly a part of such cost, (cc) there are no mechanics' or similar liens for labor or materials theretofore supplied in connection with the Restoration, (dd) if the estimated cost of the Restoration exceeds the Net Insurance Proceeds (exclusive of Proceeds received from Borrower's business income insurance), Borrower has deposited into an escrow satisfactory to Collateral Agent such excess amount, which sum will be disbursed pursuant to escrow instructions satisfactory to Collateral Agent, (ee) the balance of such Net Insurance Proceeds, together with the funds deposited into escrow, if any, pursuant to the preceding subsection and (ff), after making the payment requested will be sufficient to pay the balance of the cost of the Restoration. Upon receipt by Collateral Agent of evidence reasonably satisfactory to it that the Restoration has been completed and the cost thereof paid in full, and that there are no mechanics' or similar liens for labor or materials supplied in connection therewith, the balance, if any, of such Net Insurance Proceeds shall be paid to Borrower. If at the time of the damage or destruction to the Mortgaged Property or at any time thereafter an Event of Default shall have occurred and be continuing under the Loan Documents, all Net Insurance Proceeds shall be paid to Collateral Agent, and Collateral Agent may retain and apply the Net Insurance Proceeds toward the Obligations whether or not then due and payable, in such order, priority and proportions as Collateral Agent in its discretion shall deem proper, or to cure such Event of Default, or, in Collateral Agent's discretion, Collateral Agent may pay such Net Insurance Proceeds in whole or in part to Borrower to be applied toward the cost of the Restoration. If Collateral Agent shall receive and retain Net Insurance Proceeds, the lien of this Mortgage shall be reduced only by the amount received and retained by Collateral Agent and actually applied by Collateral Agent in reduction of the Obligations.

(b) *Condemnation.* (i) In case of a taking of all or any part of the Mortgaged Property or the commencement of any proceedings or negotiations which might result in a taking, for any public or quasi-public purpose by any lawful power or authority by exercise of the right of condemnation or eminent domain or by agreement between Collateral Agent, Borrower and those authorized to exercise such right ("Taking"), Borrower will promptly give written notice thereof to Collateral Agent, generally describing the nature and extent of such Taking. Collateral Agent shall file and prosecute on behalf of Collateral Agent and Borrower any and all claims for Proceeds, and all Proceeds on account of a Taking shall be paid to Collateral Agent.

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(ii) In case of a Taking of the whole of the Mortgaged Property, other than for temporary use ("Total Taking"), or in case of a Taking of less than all of the Mortgaged Property ("Partial Taking"), the Loan Documents shall remain in full force and effect. In the case of a Partial Taking, Borrower, whether or not the Proceeds, if any, on account of such Partial Taking shall be sufficient for the purpose (but provided they are made available by Collateral Agent for such purpose), at its own or Lessee's cost and expense, will promptly commence and complete or cause the commencement and completion of the Restoration. In case of a Partial Taking, other than a temporary use, of such a substantial part of the Mortgaged Property as shall result in the Mortgaged Property remaining after such Partial Taking being unsuitable for use, such Taking shall be deemed a Total Taking.

(iii) In case of a temporary use of the whole or any part of the Mortgaged Property by a Taking, the Loan Documents shall remain in full force and effect without any reduction of any monetary sum payable under the Loan Documents. In any proceeding for such Taking, Collateral Agent shall have the right to intervene and participate; provided that, if such intervention shall not be permitted, Borrower shall consult with Collateral Agent, its attorneys and experts, and make all reasonable efforts to cooperate with Collateral Agent in the prosecution or defense of such proceeding. At the termination of any such use or occupation of the Mortgaged Property, Borrower will, at its own or Lessee's cost and expense, promptly commence and complete or cause the commencement and completion of the Restoration.

(iv) Proceeds on account of a Taking, less the costs, fees and expenses incurred by Collateral Agent and Borrower in connection with the collection thereof, including, without limitation, attorneys' fees and expenses, shall be applied in the following order:

(x) Proceeds received by Collateral Agent or Borrower on account of a Total Taking shall be allocated as follows:

(aa) There shall be paid to the Collateral Agent an amount up to the Outstanding Obligations, as of the date on which such payment is made, such amount shall be applied first against all sums advanced by Collateral Agent under this Mortgage, second against the accrued but unpaid interest on the Note, and third to the remaining unpaid principal amount of the Note and other sums due under this Mortgage. If the Proceeds received on account of a Total Taking are not sufficient to satisfy the Outstanding Obligations, Borrower shall pay to Collateral Agent simultaneously with the payment of such Proceeds to Collateral Agent the difference between the amount of such Proceeds and the amount of the Outstanding Obligations.

(bb) Any remaining balance shall be paid to Borrower.

(y) Proceeds received by Collateral Agent or Borrower on account of a Partial Taking shall be held and allocated as follows:

(i) first, toward the cost of the Restoration, such application of net awards and other payments to be made substantially in the manner provided in Section 4.01(a)(iii) of this Mortgage; and

(ii) then, all or any portion of the balance of such proceeds shall, in Collateral Agent's sole discretion, either be paid to:

(1) Collateral Agent, as the holder of this Mortgage, and applied toward the Outstanding Obligations in such order, priority and proportion, and at such time on or prior to the Maturity Date (as defined in the Loan Agreement or in the Note), as Collateral Agent shall determine; or

(2) Borrower; provided, however, in Collateral Agent's sole discretion, such proceeds shall be pledged to Collateral Agent to secure the Outstanding Obligations pursuant to a security agreement reasonably satisfactory to Collateral Agent, or, with

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Collateral Agent's consent, Borrower shall provide Collateral Agent with alternative security satisfactory to Collateral Agent in its sole discretion.

Collateral Agent may deposit any funds held by it in accounts insured by any federal or state agency and may commingle such funds with other funds and accounts of Collateral Agent. Interest or gains from such funds, if any, shall be the sole property of Collateral Agent.

(z) Proceeds received by Collateral Agent or Borrower on account of a Taking for temporary use shall be held by Collateral Agent and applied to the payment of the monthly installments of combined interest and principal becoming due under the Note, until such Taking for temporary use is terminated and the Restoration, if any, has been completed; provided, however, that, if any portion of any such award or payment is made by reason of any damage to or destruction of the Mortgaged Property, such portion shall be held and applied as provided in Section 4.01(a)(iii) hereof. The balance, if any, of such awards and payments shall be paid to Borrower.

(v) Notwithstanding the foregoing, if at the time of any Taking or at any time thereafter an Event of Default shall have occurred and be continuing under the Loan Documents, Collateral Agent is hereby authorized and empowered, in the name and on behalf of Borrower and otherwise, to file and prosecute Borrower's claim, if any, for an award on account of any Taking and to collect such award and apply the same, after deducting all costs, fees and expenses incident to the collection thereof (the "Net Award"), toward the Obligations whether or not then due and payable, in such order, priority and proportions as Collateral Agent in its discretion shall deem proper, or to cure such Event of Default, or, in Collateral Agent's discretion, Collateral Agent may pay the Net Award in whole or in part to Borrower to be applied toward the cost of the Restoration. If Collateral Agent shall receive and retain the Net Award, the lien of this Mortgage shall be reduced only by the amount received and retained by Collateral Agent and actually applied by Collateral Agent in reduction of the Obligations.

Section 4.02. *Conveyance in Anticipation of Condemnation, Granting of Easements, Etc.* If no Event of Default shall have occurred and be continuing, Borrower may, from time to time with respect to its interest in the Mortgaged Property, and with Collateral Agent's prior written consent, (i) sell, assign, convey or otherwise transfer any interest therein to any person legally empowered to take such interest under the power of eminent domain, (ii) grant easements and other rights in the nature of easements, (iii) release existing easements or other rights in the nature of easements which are for the benefit of the Mortgaged Property, (iv) dedicate or transfer unimproved portions of the Mortgaged Property for road, highway or other public purposes, (v) execute petitions to have the Mortgaged Property annexed to any municipal corporation or utility district, and (vi) execute and deliver to any person any instrument appropriate to confirm or effect such grants, releases, dedications and transfers.

Section 4.03. *Collateral Agent's Power.* At any time, or from time to time, without liability therefor, Collateral Agent, without affecting the personal liability of any person for payment of the Obligations or the effect of this Mortgage upon the remainder of said Mortgaged Property, may from time to time without notice, solely in order to protect the security hereof or to pay or discharge the Obligations in the event Borrower fails to do so, (i) release any part of said Mortgaged Property, (ii) consent in writing to the making of any map or plat thereof, (iii) join in any extension agreement or any agreement subordinating the lien or charge hereof, (iv) release any person so liable, (v) extend the maturity or alter any of the terms of any Obligations, (vi) grant other indulgences, (vii) take or release any other or additional security for any Obligations, (viii) make compositions or other arrangements with debtors in relation thereto, or (ix) advance additional funds and all amounts so advanced shall be secured hereby and shall be due and payable upon demand by Collateral Agent.

Section 4.04. *Priority of Loan Agreement.* In the event that any Loan Agreement provides for any covenants or requirements that are inconsistent with the provisions of this Article IV, the Loan Agreement provisions shall control.

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ARTICLE V
SECURITY INTEREST

Section 5.01. *Security Agreement.* With respect to the Personal Property or any portion of the Mortgaged Property which constitutes fixtures or other property governed by the UCC, this Mortgage shall constitute a security agreement between Borrower, as the debtor, and Collateral Agent, as the secured party, and Borrower hereby grants to Collateral Agent a security interest in such portion of the Mortgaged Property. Cumulative of all other rights of Collateral Agent hereunder, Collateral Agent shall have all of the rights conferred upon secured parties by the UCC. Borrower authorizes Collateral Agent to file financing statements with respect to the security interest of Collateral Agent, continuation statements with respect thereto, and any amendments to such financing statements which may be allowed pursuant to the Loan Documents. Furthermore, at any time, and from time to time, Borrower will execute and deliver to Collateral Agent all financing statements that may from time to time be required by Collateral Agent to establish and maintain the validity and priority of the security interest of Collateral Agent, or any modification thereof. Collateral Agent may exercise any or all of the remedies of a secured party available to it under the UCC with respect to such property. If, upon the occurrence and during the continuance of an Event of Default, Collateral Agent proceeds to dispose of such property in accordance with the provisions of the UCC, 10 days' notice by Collateral Agent to Borrower shall be deemed to be reasonable notice under any provision of the UCC requiring such notice; provided, however, that Collateral Agent may at its option dispose of such property in accordance with Collateral Agent's rights and remedies with respect to the real property pursuant to the provisions of this Mortgage, in lieu of proceeding under the UCC. Borrower represents that its exact legal name and state of formation or organization are as set forth in the first paragraph of this Mortgage. Borrower agrees that, notwithstanding any provision in the UCC to the contrary, Borrower shall not file a termination statement of any financing statement filed by Collateral Agent in connection with any security interest granted under this Mortgage if Collateral Agent reasonably objects to the filing of such termination statement.

Section 5.02. *Effective as a Financing Statement and Fixture Filing.* This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Mortgaged Property and is to be filed for record in the real estate records of each county where any part of the Mortgaged Property (including said fixtures) is situated. This Mortgage shall also be effective as a financing statement covering any other portion of the Mortgaged Property and may be filed in any other appropriate filing or recording office. The mailing address of Borrower is the address of Borrower set forth in the introductory paragraph of this Mortgage, and the address of the Collateral Agent from which information concerning the security interests hereunder may be obtained is the address of Collateral Agent as set forth in the introductory paragraph of this Mortgage. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Section.

ARTICLE VI
EVENTS OF DEFAULT AND REMEDIES

Section 6.01. *Events of Default.* Each of the following shall be an event of default under this Mortgage (each an "Event of Default"):

- (i) If Borrower fails to pay any principal or interest payment due under the Primary Note within five days after the date such payment is due and payable.
- (ii) Subject to the provisions of Section 3.04(b) of this Mortgage, if Borrower fails to pay, prior to delinquency, any taxes, assessments or other charges the failure of which to pay will result in the imposition of a lien against the Mortgaged Property pursuant to Applicable Regulations.
- (iii) If Borrower shall fail to maintain insurance in accordance with the requirements of Section 3.05 of this Mortgage.

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(iv) If Borrower materially fails to observe or perform any of the covenants, conditions, or obligations of this Mortgage, provided, however, if any such failure does not involve the payment of any principal, interest or other monetary sum due under the Note or any of the Notes made pursuant to any Loan Agreement, is not willful or intentional, does not place any rights or interest in collateral of Collateral Agent in immediate jeopardy, and is within the reasonable power of Borrower to promptly cure after receipt of notice thereof, all as determined by Collateral Agent, the Indenture Trustee or Lender, as applicable, in its reasonable discretion, then such failure shall not constitute an Event of Default hereunder, unless otherwise expressly provided herein, unless and until Collateral Agent shall have given Borrower notice thereof and a period of 30 days shall have elapsed, during which period Borrower may correct or cure such failure, upon failure of which an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required. If such failure cannot reasonably be cured within such 30-day period, as determined by Collateral Agent in its reasonable discretion, and Borrower is diligently pursuing a cure of such failure, then Borrower shall have a reasonable period to cure such failure beyond such 30-day period, which shall in no event exceed 90 days after receiving notice of the failure from Collateral Agent. If Borrower shall fail to correct or cure such failure within such 90-day period, an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required.

(v) If there is an "Event of Default" under any Loan Agreement and all cure periods, if any, with respect thereto have expired without the Borrower curing such "Event of Default".

Section 6.02. **Remedies.** Upon the occurrence and during the continuance of an Event of Default subject to the limitations set forth in Section 6.01, Collateral Agent may declare all or any part of the Obligations to be due and payable, and the same shall thereupon become due and payable without any presentment, demand, protest or notice (including notice of intent to accelerate and notice of acceleration) of any kind except as otherwise expressly provided herein. Furthermore, upon the occurrence and during the continuance of an Event of Default, Collateral Agent may:

(i) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Property or any part thereof and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Mortgaged Property, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Mortgaged Property, take any action described herein, sue for or otherwise collect the Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorneys' fees, upon any Obligations, all in such order as the Lender may determine. The entering upon and taking possession of the Mortgaged Property, the taking of any action described herein, the collection of such Rents, and the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of default or invalidate any act done in response to such Event of Default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Mortgaged Property or the collection, receipt and application of Rents, the Lender shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon any Event of Default;

(ii) Commence an action to foreclose this Mortgage in a single parcel or in several parcels, appoint a receiver or specifically enforce any of the covenants hereof;

(iii) Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code as adopted in the State ("UCC"), including, without limitation:

(1) Either personally or by means of a court appointed receiver, commissioner or other officer, take possession of all or any of the Personal Property and exclude therefrom Borrower and all others claiming under Borrower, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Borrower in respect of the Personal Property or any part thereof. In the event the Lender demands or attempts to take possession of the Personal Property in the

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exercise of any rights under any of the Loan Documents, Borrower promises and agrees to promptly turn over and deliver complete possession thereof to the Lender;

(2) Without notice to or demand upon Borrower, make such payments and do such acts as the Lender may deem necessary to protect its security interest in the Personal Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder and, in exercising any such powers or authority, to pay all expenses incurred in connection therewith;

(3) Require Borrower to assemble the Personal Property or any portion thereof, at the Mortgaged Property, and promptly to deliver such Personal Property to the Lender, or an agent or representative designated by it. The Lender, and its agents and representatives, shall have the right to enter upon any or all of Borrower's premises and property to exercise the Lender's rights hereunder;

(4) Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as the Lender may determine. The Lender may be a purchaser at any such sale;

(5) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Lender shall give Borrower at least 10 days' prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof. Such notice may be delivered to Borrower at the address set forth at the beginning of this Mortgage and shall be deemed to be given as provided herein; and

(6) Any sale made pursuant to the provisions of this subsection shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with the sale of all or a portion of the other Mortgaged Property under power of sale as provided herein upon giving the same notice with respect to the sale of the Personal Property hereunder as is required for such sale of the other Mortgaged Property under power of sale, and such sale shall be deemed to be pursuant to a security agreement covering both real and personal property under the UCC.

(iv) Exercise all of Borrower's rights and remedies under the Indemnity Agreements, including, without limitation, making demands and claims and receiving payments under the Indemnity Agreements. Borrower hereby grants the Lender a power of attorney (which grant shall be deemed irrevocable and coupled with an interest) to exercise such rights and remedies;

(v) Apply any sums then deposited in the impound account described in Section 3.06 toward payment of the taxes, assessment and insurance premiums for the Mortgaged Property and/or as a credit on the Obligations in such priority and proportion as the Lender may determine in its sole discretion;

(vi) If held by the Lender, surrender the insurance policies maintained pursuant to Section 3.05, collect the unearned insurance premiums and apply such sums as a credit on the Obligations in such priority and proportion as the Lender in its sole discretion shall deem proper, and in connection therewith, Borrower hereby appoints the Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for the Lender to collect such insurance premiums; and

(vii) Sell Borrower's interest in the Mortgaged Property pursuant to the power of sale herein conferred. If Collateral Agent elects to sell Borrower's interest in the Mortgaged Property by exercise of such power of sale, Collateral Agent shall notify Lender to cause such sale to be performed in the manner then required by law.

(aa) Upon receipt of notice from Collateral Agent and at the direction of Collateral Agent, Lender shall cause to be recorded, published and delivered such notices of default and notices of sale as

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may then be required by law and by this Mortgage. Lender shall, only at the direction of Collateral Agent, and without demand on Borrower, after such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell Borrower's interest in the Mortgaged Property at the time and place of sale fixed by Collateral Agent, either as a whole, or in separate lots or parcels or items as Collateral Agent shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale, or as otherwise may then be required by law. Lender shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, with general warranty of title by Borrower, as applicable. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Lender, Borrower or Collateral Agent, may purchase at such sale. Lender or Collateral Agent may sell not only the real property but also the Personal Property and other interests which are a part of the Mortgaged Property, or any part thereof, as a unit and as a part of a single sale, or may sell any part of the Mortgaged Property separately from the remainder of the Mortgaged Property. Lender and Collateral Agent shall not be required to take possession of any part of the Mortgaged Property or to have any of the Personal Property present at any sale of the Mortgaged Property. Lender or Collateral Agent may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Lender or Collateral Agent, including the posting of notices and the conduct of sale, but in the name and on behalf of Collateral Agent. In the event any sale hereunder is not completed or is defective in the opinion of Lender or Collateral Agent, such sale shall not exhaust the power of sale hereunder, and Lender or Collateral Agent shall have the right to cause a subsequent sale or sales to be made hereunder until all of the Mortgaged Property has been lawfully sold.

(bb) As may be permitted by law, Lender or Collateral Agent shall apply the proceeds of sale (i) first, to payment of all costs, fees and expenses, including attorneys' fees and expenses incurred by the Collateral Agent in exercising the power of sale or foreclosing this Mortgage, (ii) second, to the payment of the Obligations (including, without limitation, the principal, accrued interest and other sums due and owing under the Note and the amounts due and owing to Collateral Agent under this Mortgage) in such manner and order as Collateral Agent may elect, and (iii) third, the remainder, if any, shall be paid to Borrower, or to Borrower's heirs, devisees, representatives, successors or assigns, or such other persons as may be entitled thereto.

(cc) Lender may in the manner provided by law postpone sale of all or any portion of the Mortgaged Property.

Section 6.03. Appointment of Receiver. If an Event of Default shall have occurred and be continuing, Collateral Agent, as a matter of right and without notice to Borrower or anyone claiming under Borrower, Borrower hereby waiving any right to a hearing or notice of hearing prior to the appointment of a receiver, and without regard to any showing of insolvency, fraud or mismanagement and without regard to the then sufficiency of the security for the payment of the Obligations and without notice to Borrower and without any showing of insolvency, fraud or mismanagement on the part of the Borrower, and without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, shall be entitled to the appointment of a receiver or receivers of the Mortgaged Property or any part thereof, and of the income, rents, issues and profits thereof, and Borrower hereby irrevocably consents to the appointment of a receiver or receivers. Any receivers appointed pursuant to the provisions of this subsection shall have the usual powers and duties of receivers in such matters. To the extent permitted by applicable law, Borrower or the then-owner of the Mortgaged Property, may seek the appointment of a receiver for the Mortgaged Property upon *ex parte* application to any court of the competent jurisdiction. Such receiver shall be empowered (a) to take possession of the Mortgaged Property and any businesses conducted by Borrower thereon and any business assets used in connection therewith, (b) to exclude Borrower and Borrower's agents, servants and employees from the Mortgaged Property, or, at the option of the receiver, in lieu of such exclusion, to collect a fair market rental from any such persons occupying any part of the Mortgaged Property, (c) to collect the Rents, (d) to complete any construction that may be in progress, (e) to continue the development, marketing and sale of the Mortgaged Property, (f) to do such maintenance and make such repairs and alterations as the receiver deems necessary, (g) to use all stores of materials, supplies and maintenance equipment on the Mortgaged Property and replace such items at the expense of the receivership estate, (h) to pay all taxes and

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assessments against the Mortgaged Property, all premiums for insurance thereon, all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance. (i) to request that Collateral Agent advance such funds as may reasonably be necessary to the effective exercise of the receiver's powers, on such terms as may be agreed upon by the receiver and Collateral Agent, but not in excess of the Default Rate, and (j) generally to do anything that Borrower could legally do if Borrower were in possession of the Mortgaged Property. All expenses incurred by the receiver or his agents, including obligations to repay funds borrowed by the receiver, shall constitute a part of the Obligations. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including reasonable attorneys' fees incurred by the receiver and by Collateral Agent, together with interest thereon at the highest rate of interest applicable in the Note from the date incurred until repaid, and the balance shall be applied toward the Obligations or in such other manner as the court may direct.

Section 6.04. Remedies Not Exclusive. Collateral Agent shall be entitled to enforce payment and performance of any Obligations and to exercise all rights and powers under this Mortgage or under the Loan Documents or other agreement or any laws now or hereafter in force, notwithstanding some or all of the Obligations may now or hereafter be otherwise secured, whether by mortgage, Mortgage, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Collateral Agent's right to realize upon or enforce any other security now or hereafter held by Collateral Agent, it being agreed that Collateral Agent shall be entitled to enforce this Mortgage and any other security now or hereafter held by Collateral Agent in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to Collateral Agent is intended to be exclusive of any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Collateral Agent, or to which Collateral Agent may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Collateral Agent. Collateral Agent may pursue inconsistent remedies.

The acceptance by Collateral Agent of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured or to declare a subsequent Event of Default as herein provided. The acceptance by Collateral Agent of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Borrower to pay the entire sum then due, and failure of Borrower to pay such entire sum then due shall be an Event of Default, notwithstanding such acceptance of such amount on account, as aforesaid. Collateral Agent shall be, at all times thereafter and until the entire sum then due as contemplated by the Loan Documents shall have been paid, and notwithstanding the acceptance by Collateral Agent thereafter of further sums on account, or otherwise, entitled to exercise all rights in this instrument conferred upon them or either of them, and the right to proceed with a sale under any notice of default, or an election to sell, or the right to exercise any other rights or remedies hereunder, shall in no way be impaired, whether any of such amounts are received prior or subsequent to such proceeding, election or exercise. Consent by Collateral Agent to any action or inaction of Borrower which is subject to consent or approval of Collateral Agent hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions or inactions.

Section 6.05. Possession of Mortgaged Property. In the event of a trustee's sale or foreclosure sale hereunder and after the time of such sale, Borrower occupies the portion of the Mortgaged Property so sold, or any part thereof, Borrower shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of either tenant or landlord, at a reasonable rental per day based upon the value of the portion of the Mortgaged Property so occupied, such rental to be due and payable daily to the purchaser. An action of unlawful detainer shall lie if the tenant holds over after a demand in writing for possession of such Mortgaged Property; and this Mortgage and a trustee's or sheriff's deed shall constitute a lease and agreement under which the tenant's possession arose and continued. Nothing contained in this Mortgage shall be construed to constitute Collateral Agent as a "mortgagee in possession" in the absence of its taking actual possession of the Mortgaged Property pursuant to the powers granted herein.

Section 6.06. Waiver of Rights. Borrower waives the benefit of all laws now existing or that hereafter may be enacted (i) providing for any appraisal before sale of any portion of the Mortgaged Property, or (ii) in any way extending the time for the enforcement of the collection of the Obligations or creating or extending a period

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of redemption from any sale made in collecting the Obligations. Borrower agrees that Borrower will not at any time insist upon, plea, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension, redemption or homestead exemption, and Borrower, for Borrower, Borrower's representatives, successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, homestead exemption, notice of election to mature or declare due the whole of the Obligations and marshaling in the event of foreclosure of the liens hereby created. If any law referred to in this Section and now in force, of which Borrower, Borrower's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section. Borrower expressly waives and relinquishes any and all rights, remedies and defenses that Borrower may have or be able to assert by reason of the laws of the State pertaining to the rights, remedies and defenses of sureties.

If an Event of Default shall have occurred and be continuing, Borrower hereby irrevocably and unconditionally waives and releases (i) all benefits that might accrue to Borrower by virtue of any present or future law exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption, or extension of time for payment; and (ii) any right to a marshaling of assets or a sale in inverse order of alienation.

Section 6.07. Relief From Stay. In the event that Borrower commences a case under the Code or is the subject of an involuntary case that results in an order for relief under the Code, subject to court approval, Collateral Agent shall thereupon be entitled and Borrower irrevocably consents to relief from any stay imposed by Section 362 of the Code on or against the exercise of the rights and remedies otherwise available to Collateral Agent as provided in the Loan Documents and Borrower hereby irrevocably waives its rights to object to such relief. In the event Borrower shall commence a case under the Code or is the subject of an involuntary case that results in an order for relief under the Code, Borrower hereby agrees that no injunctive relief against Collateral Agent shall be sought under Section 105 or other provisions of the Code by Borrower or other person or entity claiming through Borrower, nor shall any extension be sought of the stay provided by Section 362 of the Code.

Section 6.08. Cash Collateral. Borrower hereby acknowledges and agrees that in the event that Borrower commences a case under the Code or is the subject of an involuntary case that results in an order for relief under the Code: (i) that all of the Rents are, and shall for purposes be deemed to be, "proceeds, product, offspring, rents, or profits" of the Mortgaged Property covered by the lien of this Mortgage, as such quoted terms are used in Section 552(b) of the Code; (ii) that in no event shall Borrower assert, claim or contend that any portion of the Rents are, or should be deemed to be, "accounts" or "accounts receivable" within the meaning of the Code and/or applicable state law; (iii) that the Rents are and shall be deemed to be in any such bankruptcy proceeding "cash collateral" of Collateral Agent as that term is defined in Section 363 of the Code; and (iv) that Collateral Agent has valid, effective, perfected, enforceable and "choate" rights in and to the Rents without any further action required on the part of Collateral Agent to enforce or perfect its rights in and to such cash collateral, including, without limitation, providing notice to Borrower under Section 546(h) of the Code.

Section 6.09. Assignment of Rents and Leases. (a) Borrower hereby assigns, transfers, conveys and sets over to Collateral Agent all of Borrower's estate, right, title and interest in, to and under the Leases, whether existing on the date hereof or hereafter entered into, together with any changes, extensions, revisions or modifications thereof and all rights, powers, privileges, options and other benefits of Borrower as the lessor under the Leases regarding the current tenants and any future tenants, and all the Rents from the Leases, including those now due, past due or to become due. Borrower irrevocably appoints Collateral Agent its true and lawful attorney-in-fact, at the option of Collateral Agent, at any time and from time to time upon the occurrence and during the continuance of an Event of Default, to take possession and control of the Mortgaged Property, pursuant to Borrower's rights under the Leases, to exercise any of Borrower's rights under the Leases, and to demand, receive and enforce payment, to give receipts, releases and satisfaction and to sue, in the name of Borrower or Collateral Agent, for all of the Rents. The power of attorney granted hereby shall be irrevocable and coupled with an interest and shall terminate only upon the payment of all sums due Collateral Agent for all losses, costs, damages, fees and expenses whatsoever associated with the exercise of this power of attorney, and Borrower hereby releases Collateral Agent from all liability (other than as a result of the gross negligence or willful misconduct of Collateral Agent) whatsoever for the exercise of the foregoing

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power of attorney and all actions taken pursuant thereto. The consideration received by Borrower to execute and deliver this assignment and the liens and security interests created herein is legally sufficient and will provide a direct economic benefit to Borrower. It is intended by Borrower and Collateral Agent that the assignment set forth herein constitutes an absolute assignment and not merely an assignment for additional security. Notwithstanding the foregoing, this assignment shall not be construed to bind Collateral Agent to the performance of any of the covenants, conditions or provisions of Borrower contained in the Leases or otherwise to impose any obligation upon Collateral Agent, and, so long as no Event of Default shall have occurred and be continuing, Borrower shall have a license, revocable upon an Event of Default, to possess and control the Mortgaged Property and collect and receive all Rents. Upon an Event of Default, such license shall be automatically revoked.

(b) Upon the occurrence and during the continuance of an Event of Default, Collateral Agent may, at any time without notice (except if required by applicable law), either in person, by agent or by a court-appointed receiver, regardless of the adequacy of Collateral Agent's security, and at its sole election (without any obligation to do so), enter upon and take possession and control of the Mortgaged Property, or any part thereof, to perform all acts necessary and appropriate to operate and maintain the Mortgaged Property, including, but not limited to, execute, cancel or modify the Leases, make repairs to the Mortgaged Property, execute or terminate contracts providing for the management or maintenance of the Mortgaged Property, all on such terms as are deemed best to protect the security of this assignment, and in Collateral Agent's or Borrower's name, sue for or otherwise collect such Rents as specified in this Mortgage as the same become due and payable, including, but not limited to, Rents then due and unpaid. Collateral Agent may so sue for or otherwise collect such Rents with or without taking possession of the Mortgaged Property. Borrower agrees that upon the occurrence and during the continuance of an Event of Default, each tenant of the Mortgaged Property shall make its rent payable to and pay such rent to Collateral Agent (or Collateral Agent's agents) on Collateral Agent's written demand therefor, delivered to such tenant personally, by mail, or by delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of an Event of Default by Borrower.

(c) Rents collected subsequent to any Event of Default shall be applied at the direction of, and in such order as determined by, Collateral Agent to the costs, if any, of taking possession and control of and managing the Mortgaged Property and collecting such amounts, including, but not limited to, reasonable attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Mortgaged Property, premiums on insurance policies, taxes, assessments and other charges on the Mortgaged Property, and the costs of discharging any obligation or liability of Borrower with respect to the Leases and to the sums secured by this Mortgage. Collateral Agent or the receiver shall have access to the books and records used in the operation and maintenance of the Mortgaged Property and shall be liable to account only for those Rents actually received.

(d) Collateral Agent shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Mortgaged Property by reason of anything done or left undone by Collateral Agent hereunder, except to the extent of Collateral Agent's gross negligence or willful misconduct.

(e) Any entering upon and taking possession and control of the Mortgaged Property by Collateral Agent or the receiver and any application of Rents as provided herein shall not cure or waive any Event of Default hereunder or invalidate any other right or remedy of Collateral Agent under applicable law or provided therein.

ARTICLE VII

MISCELLANEOUS

Section 7.01. *Satisfaction.* If and when the Obligations shall have become due and payable (whether by lapse of time or by acceleration or by the exercise of the privilege of prepayment), and Borrower shall pay or cause to be paid all Obligations and all other sums payable by the Borrower with respect to the Obligations, then this Mortgage shall be void (otherwise it shall remain in full force and effect in law and equity forever) and Collateral Agent agrees to execute an instrument evidencing the satisfaction of all obligations under this Mortgage and releasing this Mortgage which shall be prepared and recorded at Borrower's sole expense.

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Section 7.02. *Limitation of Rights of Others.* Nothing in this Mortgage is intended or shall be construed to give to any person, other than Borrower and the holder of the Note, any legal or equitable right, remedy or claim under or in respect of this Mortgage or any covenant, condition or provision herein contained.

Section 7.03. *Severability.* In case any one or more of the provisions contained herein or in the Note shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Mortgage shall be construed as if such provision had never been contained herein or therein.

Section 7.04. *Notices; Amendments; Waiver.* All notices, demands, designations, certificates, requests, offers, consents, approvals, appointments and other instruments given pursuant to this Mortgage (collectively called "Notices") shall be in writing and given by (i) hand delivery, (ii) facsimile, (iii) express overnight delivery service or (iv) certified or registered mail, return receipt requested and shall be deemed to have been delivered upon (a) receipt, if hand delivered, (b) machine confirmation, if delivered by facsimile, (c) the next Business Day, if delivered by express overnight delivery service, or (d) the fifth Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested. Notices shall be provided to the parties and addresses (or facsimile numbers, as applicable) specified below:

If to Collateral Agent: Citibank, N.A.
388 Greenwich Street, Floor 14
New York, New York 10013
Attention: Agency & Trust, Spirit
Telephone: (212) 816-5693
Telecopy: (212) 816-5527

If to Borrower: Spirit Master Funding IV, LLC
14631 N. Scottsdale Road
Suite 200
Scottsdale, Arizona 85254-2711
Attention: Catherine Long
Telephone: (480) 606-0820
Telecopy: (480) 606-0826

with a copy to: Kutak Rock LLP
1801 California Street
Suite 3100
Denver, Colorado 80202
Attention: Paul E. Beitz, Esq.
Telephone: (303) 297-2400
Telecopy: (303) 292-2277

or to such other address or such other person as either party may from time to time hereafter specify to the other party in a notice delivered in the manner provided above. Whenever in this Mortgage the giving of Notice is required, the giving thereof may be waived in writing at any time by the person or persons entitled to receive such Notice. Except as in this Mortgage otherwise expressly provided, (i) this Mortgage may not be modified except by an instrument in writing executed by Borrower and Collateral Agent and (ii) no requirement hereof may be waived at any time except by a writing signed by the party against whom such waiver is sought to be enforced, nor shall any waiver be deemed a waiver of any subsequent breach or default.

Section 7.05. *Successors and Assigns; Successor to Collateral Agent.* All of the provisions herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, to the same extent as if each such successor and assign were in each case named as a party to this Mortgage. Wherever used, the singular shall include the plural, the plural shall include the singular and the use of any gender shall include all genders. In the event that the Collateral Agent is replaced, substituted or removed under the terms of the Collateral Agency Agreement, the party to whom the Lender transfers such collateral agency obligations

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(including, without limitation, any successor collateral agent, trustee or agent) shall automatically (and without record notice) be deemed the successor "Collateral Agent" hereunder and no amendment or assignment of this Mortgage shall be required. In addition, if the Collateral Agency Agreement is terminated in its entirety and no successor is appointed by Lender, then Lender shall be deemed the "Collateral Agent" and no assignment, notice or recorded document shall be required in connection therewith.

Section 7.06. *Headings.* The headings appearing in this Mortgage have been inserted for convenient reference only and shall not modify, define, limit or expand the express provisions of this Mortgage.

Section 7.07. *Time of the Essence.* Time is of the essence in the performance of each and every obligation under this Mortgage.

Section 7.08. *Forum Selection; Jurisdiction; Venue; Choice of Law.* Borrower acknowledges that this Mortgage was substantially negotiated in the State, this Mortgage was delivered in the State, all payments under the Loan Documents will be delivered in the State and there are substantial contacts between the parties and the transactions contemplated herein and the State. For purposes of any action or proceeding arising out of this Mortgage, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in the State. Borrower consents that it may be served with any process or paper by registered mail or by personal service within or without the State in accordance with applicable law. Furthermore, Borrower waives and agrees not to assert in any such action, suit or proceeding that it is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. The creation of this Mortgage and the rights and remedies of Collateral Agent with respect to the Mortgaged Property, as provided herein and by the laws of the State, shall be governed by and construed in accordance with the internal laws of the State without regard to its principles of conflicts of law. With respect to other provisions of this Mortgage, this Mortgage shall be governed by the internal laws of the State, without regard to its principles of conflicts of law. Nothing in this Section shall limit or restrict the right of Collateral Agent to commence any proceeding in the federal or state courts located in the State to the extent Collateral Agent deems such proceeding necessary or advisable to exercise remedies available under the Mortgage or the other Loan Documents.

Section 7.09. *Indemnification.* Borrower shall indemnify and hold harmless each of the Indemnified Parties for, from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement and damages of whatever kind or nature (including, without limitation, attorneys' fees, court costs and other costs of defense) (collectively, "Losses") (excluding Losses suffered by an Indemnified Party arising out of such Indemnified Party's gross negligence or willful misconduct; provided, however, that the term "gross negligence" shall not include gross negligence imputed as a matter of law to any of the Indemnified Parties solely by reason of Borrower's interest in the Mortgaged Property or Borrower's failure to act in respect of matters which are or were the obligation of Borrower under the Loan Documents) caused by, incurred or resulting from Borrower's operations of, or relating in any manner to, the Mortgaged Property, whether relating to its original design or construction, latent defects, alteration, maintenance, use by Borrower or any person thereon, supervision or otherwise, or from any breach of, default under or failure to perform any term or provision of this Mortgage by Borrower, its officers, employees, agents or other persons. It is expressly understood and agreed that Borrower's obligations under this Section shall survive the expiration or earlier termination of this Mortgage for any reason.

Section 7.10. *Waiver of Jury Trial and Punitive, Consequential, Special and Indirect Damages.* COLLATERAL AGENT, BY ACCEPTING THIS MORTGAGE, AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR ITS SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS MORTGAGE, THE RELATIONSHIP OF COLLATERAL AGENT AND BORROWER, BORROWER'S USE OR OCCUPANCY OF THE MORTGAGED PROPERTY, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. THIS WAIVER BY THE PARTIES HERETO OF ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL

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ASPECT OF THEIR BARGAIN. FURTHERMORE, BORROWER AND COLLATERAL AGENT HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES FROM THE OTHER AND ANY OF THE OTHER'S AFFILIATES, OFFICERS, DIRECTORS, MANAGERS, MEMBERS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER OR ANY OF THE OTHER'S AFFILIATES, OFFICERS, DIRECTORS, MANAGERS, MEMBERS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS MORTGAGE OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO. THE WAIVER BY BORROWER AND COLLATERAL AGENT OF ANY RIGHT THEY MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES HAS BEEN NEGOTIATED BY THE PARTIES HERETO AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

Section 7.11. *Entire Agreement.* THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Section 7.12. *State Specific Provisions.* State specific provisions, if any, are outlined on Exhibit B attached hereto and incorporated herein.

[Remainder of page intentionally left blank; signature page to follow]

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SPENCER
107 Union Street, Hamden, CT 06430
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IN WITNESS WHEREOF, Borrower has executed and delivered this Mortgage as of the day and year first above written.

BORROWER:

SPIRIT MASTER FUNDING IV, LLC, a Delaware
limited liability company

By: [Signature]
Name: Gregg A. Seibert
Title: Senior Vice President - Underwriting, Assistant
Secretary and Assistant Treasurer
Tax Identification No. 20-8578471

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

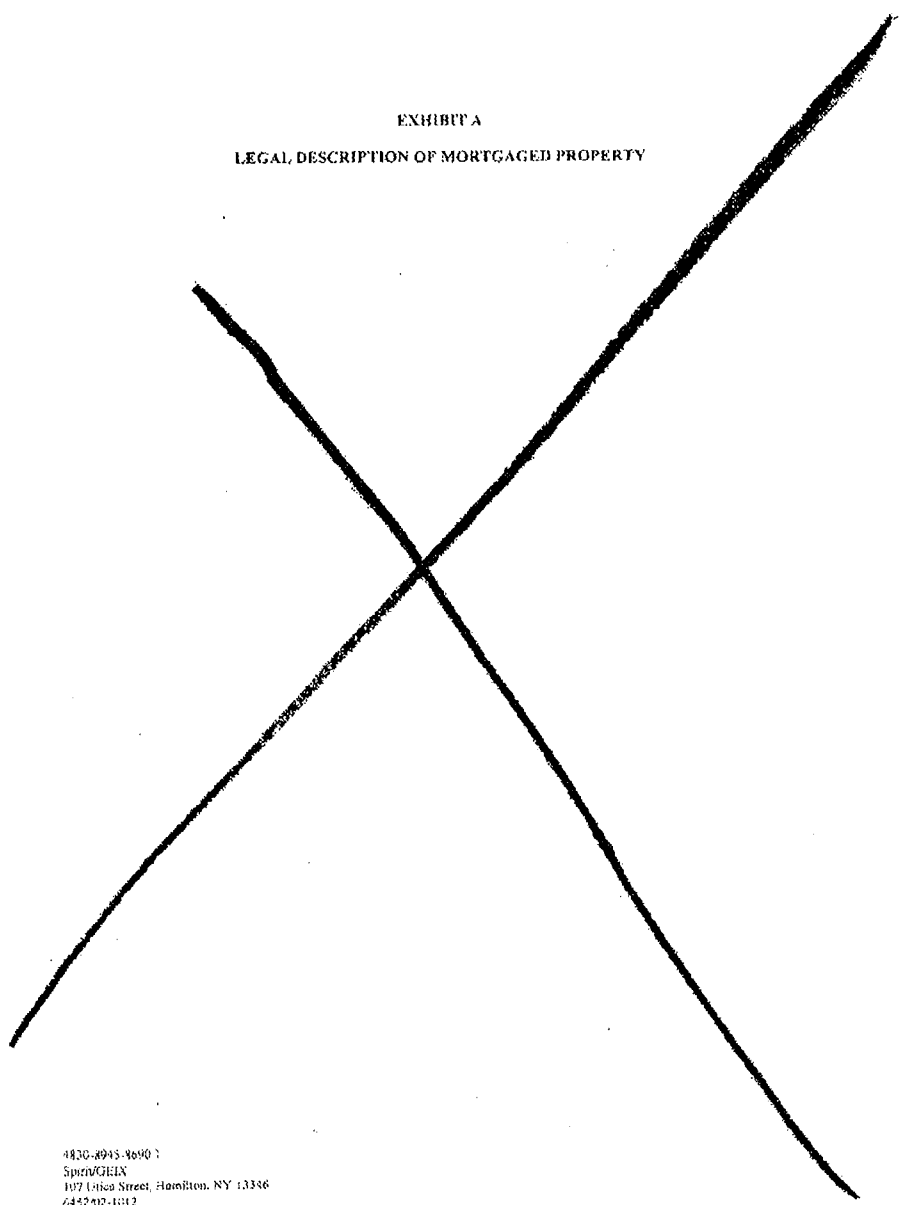
The foregoing instrument was acknowledged before me on December 19, 2007, by Gregg A. Seibert, as Senior Vice President - Underwriting, Assistant Secretary and Assistant Treasurer of **SPIRIT MASTER FUNDING IV, LLC**, a Delaware limited liability company, on behalf of the limited liability company.

[Signature]
Notary Public



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EXHIBIT A
LEGAL DESCRIPTION OF MORTGAGED PROPERTY



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EXHIBIT A

LEGAL DESCRIPTION

all THAT TRACT OR PARCEL OF LAND situate in the Village of Hamilton, ~~County of Madison~~ ^{Town Hamilton} and State of New York being a portion of Lot #1 in said Town bounded and described as follows: Beginning at a point on the centerline of Utica Street (New York State Route 12B), said point standing at the intersection of the centerline of Utica Street with the northerly boundary of Sidney A. Burgess and Judith A. Burgess (now or formerly) as described in a warranty deed dated July 3, 1962 and filed in the Madison County Clerk's Office in Liber 599 of Deeds at page 46; thence S 74° 23' 26" W. 250.00 feet along the northerly boundary of Burgess to an iron pin, said last mentioned course being further marked by an iron pin standing herein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence N 13° 05' W 100.00 feet to an iron pin; thence N 74° 23' 26" E 250.00 feet to a point on the centerline of Utica Street, said last mentioned course being further marked by an iron pin standing therein distant 24.78 feet westerly as measured from the centerline of Utica Street; thence S 13° 05' E 100.00 feet along the centerline of Utica Street to the point and place of beginning

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V & J National Foods
Hamilton, New York

EXHIBIT B

STATE SPECIFIC PROVISIONS

(a) THIS MORTGAGE DOES NOT COVER REAL PROPERTY PRINCIPALLY IMPROVED OR TO BE IMPROVED BY ONE OR MORE STRUCTURES CONTAINING IN THE AGGREGATE NOT MORE THAN SIX (6) RESIDENTIAL DWELLING UNITS, EACH HAVING THEIR OWN SEPARATE COOKING FACILITIES.

(b) Notwithstanding anything contained herein to the contrary, the maximum amount of indebtedness secured by this Mortgage at execution or which under any contingency may become secured hereby at any time hereafter is \$310,000.00 plus interest thereon, plus amounts expended by Mortgagee after a declaration of default hereunder to maintain the lien of this Mortgage or to protect the property secured by this Mortgage, including, without limitation, amounts in respect of insurance premiums, real estate taxes and litigation expenses to prosecute or defend the rights, remedies and lien of this Mortgage or title to the property secured hereby.

(c) Mortgagor will, in compliance with Section 13 of the New York Lien Law, receive the amounts secured hereby and will hold the right to receive such amounts as a trust fund to be applied first for the purpose of paying the cost of any improvements and will apply the same first to the payment of the cost of such improvements before using any part of the total of the same for any other purpose.

(d) The clauses and covenants contained herein which are construed by Section 254 of the Real Property Law of the State of New York shall, except as otherwise expressly provided herein, be construed as provided in that Section; the additional clauses and covenants contained herein shall afford rights supplemental to and not exclusive of the rights conferred by the clauses and covenants construed by said Section 254 and shall not impair, modify, alter or defeat such rights notwithstanding that such additional clauses and covenants may relate to the same subject matter or provided for different or additional rights in the same or similar contingencies as the clauses and covenants construed by said Section 254; the clauses and covenants herein which are similar to those contained in said Section 254 but which afford additional rights to Mortgagee or Mortgagor shall supersede the clauses and covenants contained in Section 254. To the extent any of the provisions herein or in the Loan Documents are inconsistent with the provisions of said Section 254, the provisions hereof and of the other Loan Documents shall control.

BY EXECUTION OF THIS MORTGAGE, BORROWER EXPRESSLY ACKNOWLEDGES THE RIGHT TO ACCELERATE THE OBLIGATION EVIDENCED BY THE NOTE AND THE POWER GIVEN HEREIN TO LENDER TO SELL THE PROPERTY BY NONJUDICIAL FORECLOSURE UPON DEFAULT BY BORROWER WITHOUT ANY JUDICIAL HEARING AND WITHOUT ANY NOTICE OTHER THAN SUCH NOTICE AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE NOTE OR PROVISIONS OF THIS MORTGAGE OR BY LAW; ACKNOWLEDGES THAT THE UNDERSIGNED HAVE READ THIS MORTGAGE AND THAT ANY AND ALL QUESTIONS REGARDING THE LEGAL EFFECT OF THIS MORTGAGE AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO BORROWER, AND BORROWER HAS CONSULTED WITH ITS COUNSEL PRIOR TO EXECUTING THIS MORTGAGE; AND ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF BORROWER HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY THE UNDERSIGNED, ON BEHALF OF BORROWER, AS PART OF A BARGAINED-FOR LOAN TRANSACTION AND THAT THIS MORTGAGE IS VALID AND ENFORCEABLE BY LENDER

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AGAINST BORROWER IN ACCORDANCE WITH ALL THE TERMS
AND CONDITIONS HEREOF.

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