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Register of Deeds, Douglas County, NE  
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*UT Title Land Services*

ASSIGNMENT OF LEASES AND RENTS

December 29, 2006

BETWEEN

PATRIOT 72ND STREET, LLC,  
a Delaware limited liability company  
("Assignor")

Address of Assignor: c/o Patriot Equities, L.P.  
1200 Liberty Ridge Drive, Suite 115  
Wayne, Pennsylvania 19087

AND

WELLS FARGO BANK, NATIONAL ASSOCIATION  
("Assignee")

Address of Assignee: Two Logan Square  
Suite 1910  
100-120 North 18th Street  
Philadelphia, Pennsylvania 19103

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FEE 2550 FB 01-60000  
BKPL -14-12 C/O \_\_\_\_\_ COMP \_\_\_\_\_  
DEL \_\_\_\_\_ SCAN \_\_\_\_\_ FV \_\_\_\_\_

Address: 4133 South 72<sup>nd</sup> Street  
Douglas, County  
Omaha, Nebraska

PREPARED BY, AND UPON RECORDATION, RETURN TO:

Drinker Biddle & Reath LLP  
One Logan Square  
18<sup>th</sup> and Cherry Streets  
Philadelphia, Pennsylvania 19103  
Attention: Austin S. Faberman, Esquire

Union Title Company  
3800 Normal Blvd. *Normal*  
Lincoln, NE 68506

PHBF1401341\5

*return to*

Omaha

FC TITLE  
# 17

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## ASSIGNMENT OF LEASES AND RENTS

**THIS ASSIGNMENT OF LEASES AND RENTS** (hereinafter referred to as this “**Assignment**”), entered into as of the 29th day of December, 2006, by **PATRIOT 72ND STREET, LLC**, a Delaware limited liability company (hereinafter referred to as “**Assignor**,” whether one or more), whose address is c/o Patriot Equities, L.P., 1200 Liberty Ridge Drive, Suite 115, Wayne, Pennsylvania 19087 to **WELLS FARGO BANK, NATIONAL ASSOCIATION** (hereinafter referred to as “**Assignee**”), whose address is Two Logan Square, Suite 1910, 100-120 North 18<sup>th</sup> Street, Philadelphia, Pennsylvania 19103.

### WITNESSETH:

#### ARTICLE 1 DEFINITIONS

1.1 **Definitions.** As used herein, the following terms shall have the following meanings:

- (a) **Event of Default:** As that term is defined in the Loan Agreement.
- (b) **Fixtures:** All materials, supplies, equipment, apparatus and other items now owned or hereafter acquired by Assignor and now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land including, but not limited to, any and all partitions, dynamos, window screens and shades, drapes, rugs and other floor coverings, awnings, motors, engines, boilers, furnaces, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatus and equipment, water tanks, swimming pools, heating, ventilating, plumbing, laundry, incinerating, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities and all other utilities, whether or not situated in easements, together with all accessions, replacements, betterments and substitutions for any of the foregoing, and the proceeds thereof.
- (c) **Improvements:** As that term is defined in the Mortgage.
- (d) **Indebtedness:** As that term is defined in the Mortgage.
- (e) **Land:** All those certain tracts, pieces or parcels of land situated and lying in Douglas County, Nebraska more particularly described in Exhibit A attached hereto and by this reference made a part hereof.
- (f) **Leases:** Any and all leases, subleases, licenses, concessions or other agreements (written or oral, now or hereafter in effect) which grant a possessory interest in and to, or the right to use or enjoy all or any portion of the Mortgaged Property, together with all security and other deposits made in connection therewith, and all other agreements, such as

architect's contracts, engineers' contracts, utility contracts, maintenance agreements and service contracts, which in any way relate to the use, occupancy, operation, maintenance, enjoyment or ownership of the Mortgaged Property.

(g) **Lessee:** Any and all tenants, subtenants, guarantors and any other party which is (i) obligated to pay rent to Assignor pursuant to the Leases and/or (ii) occupying space in the Improvements.

(h) **Loan Documents:** That certain Loan Agreement (the "**Loan Agreement**") of even date herewith between Assignor and Assignee relating to the Mortgaged Property; the Note; the Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing of even date herewith from Assignor to Assignee (the "**Mortgage**"), this Assignment, and any and all other documents now or hereafter executed by Assignor or any other person or party to evidence or secure the payment of the Indebtedness or the performance and discharge of the Obligations and all amendments thereto.

(i) **Mortgaged Property:** The Land, Improvements, Fixtures, Personalty and Rents, together with:

(i) all rights, privileges, tenements, hereditaments, royalties, minerals, oil and gas rights, rights-of-way, easements, appendages and appurtenances in anywise appertaining thereto, and all right, title and interest, if any, of Assignor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof; and

(ii) all betterments, improvements, additions, alterations, appurtenances, substitutions, replacements and revisions thereof and thereto and all reversions and remainders therein; and

(iii) all of Assignor's right, title and interest in and to any awards, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Land, Improvements, Fixtures or Personalty, including, but not limited to, those for any vacation of, or change in grade in, any streets affecting the Land or the Improvements and those for municipal utility district or other utility costs incurred or deposits made in connection with the Land; and

(iv) all of Assignor's right, title and interest in and to any proceeds of insurance required or maintained pursuant to the terms of Paragraph 4.7 of the Mortgage; and

(v) any and all other security and collateral of any nature whatsoever, now or hereafter given for the repayment of the Indebtedness or the performance and discharge of the Obligations.

As used in this Assignment, the term "**Mortgaged Property**" shall be expressly defined as meaning all or, where the context permits or requires, any portion of the above and all or, where the context permits or requires, any interest therein.

(j) **Note:** The Promissory Note of even date herewith, executed by Assignor payable to the order of Assignee, in the amount of Eight Million Four Hundred Twenty-Eight

Thousand Seven Hundred Fifty-Nine and 00/100 Dollars (\$8,428,759.00), and secured, in part, by the Mortgage, and any and all amendments, modifications, renewals, reinstatements, rearrangements, enlargements or extensions thereof or of any promissory note or notes given in substitution therefor.

(k) **Obligations:** Any and all of the covenants, conditions, warranties, representations and other obligations (other than to pay or repay the Indebtedness) made or undertaken by Assignor or other person or party to Assignee or others as set forth in the Loan Documents.

(l) **Personalty:** All of the right, title and interest of Assignor in and to all furniture, furnishings, equipment, machinery, building supplies and materials, goods, general intangibles, money, insurance proceeds, accounts, contract rights, books and records, vehicles, trademarks, trade names, logos, inventory, all refundable, returnable or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Assignor with any governmental agencies, boards, corporations, providers of utility services, public or private, including specifically, but without limitation, all refundable, returnable or reimbursable tap fees, utility deposits, commitment fees and development costs, and all other personal property (other than the Fixtures) of any kind or character as defined in and subject to the provisions of the Uniform Commercial Code, now or hereafter located or to be located upon, within or about the Land and Improvements or which are or may be used in or related to the planning, development, financing or operation of all or any portion of the Mortgaged Property together with all accessories, additions, replacements and substitutions thereto or therefor and the proceeds thereof.

(m) **Rents:** All of the rents, receipts, revenues, issues and profits now due or which may become due or to which Assignor may now or hereafter shall become entitled (whether upon the expiration of any applicable period of redemption or otherwise) or may demand or claim, arising or issuing from or out of using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying the Leases, or from or out of the Mortgaged Property or any part thereof, including, without limiting the generality of the foregoing, minimum rents, additional rents, percentage rents, parking maintenance charges or fees, tax and insurance contributions, proceeds of sale of electricity, gas, chilled and heated water and other utilities and services, deficiency rents, security deposits and liquidated damages following default or late payment of rent, premiums payable by any Lessee upon the exercise of a cancellation privilege provided for in any Lease and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Mortgaged Property, together with any and all rights and claims of any kind which Assignor may have against any Lessee under any Lease or any subtenants or occupants of the Mortgaged Property.

(n) **Unmatured Event of Default:** Any happening or occurrence which with notice, the passage of time or both would constitute an Event of Default.

1.2 **Other Definitions.** Any capitalized terms used herein without definition shall have the meanings ascribed to them in the Loan Agreement.

## ARTICLE 2 ASSIGNMENT

2.1 **Assignment.** Assignor, in consideration of the sum of ten and no/100 dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant, sell, convey, assign, transfer, set-over and deliver the Leases, the Rents and any and all guarantees thereof unto the Assignee, subject to the Permitted Encumbrances (as defined in the Mortgage), TO HAVE AND TO HOLD the Leases and the Rents unto Assignee, forever, and Assignor does hereby bind itself, its successors and assigns to warrant and forever defend the title to the Leases and the Rents unto Assignee against every person whomsoever lawfully claiming or to claim the same or any part thereof; provided, however, that the parties hereto acknowledge that the assignment of Rents is an absolute assignment and the assignment of Leases is a collateral assignment.

Both the security interest in the Leases in favor of Assignee and the absolute assignment of the Rents to Assignee extends to property of the Assignor acquired before the commencement of any federal or state bankruptcy or insolvency proceedings and to property of the Assignor acquired by the estate of Assignor after the commencement of such proceedings.

## ARTICLE 3 LIMITED LICENSE, CONTINUATION AND TERMINATION OF ASSIGNMENT

3.1 **Limited License.** Provided that there exists no Event of Default hereunder or under or in any Loan Document, Assignor shall have the right under a limited license granted hereby, and Assignee hereby grants to Assignor a license (the "License") but limited as provided in Paragraph 7.1 hereof, to collect, but not more than one (1) month in advance, all of the Rents arising from or out of the Leases, or any renewals or extensions thereof, or from or out of the Mortgaged Property or any part thereof, and Assignor shall receive such Rents and hold the same, as well as the right and license to receive such Rents, as a trust fund to be applied, and Assignor hereby covenants to apply the Rents, to the payment of interest and principal becoming due on account of the Indebtedness, to the satisfaction and discharge of the Obligations, including specifically, but without limitation, to the payment of taxes and assessments upon the Mortgaged Property before payment of penalty or interest are due thereon, to the cost of such insurance, maintenance and repairs as may be required by the terms of the Loan Documents and in satisfaction of all obligations under the Leases, all prior to the application by Assignor of the Rents for any other purposes. To the extent Assignor has the right, power and authority to collect Rents pursuant to the limited license granted under this Paragraph 3.1 and to the extent Assignee has the right, power and authority to collect Rents as provided in Paragraph 6.1, the collection of such Rents shall be applied to the reduction or repayment of the Indebtedness, to the performance and discharge of the Obligations, or in such other manner as Assignee may designate.

3.2 **Continuation and Termination of Assignment.** Upon payment in full of the Indebtedness and discharge in full of the Obligations, this Assignment shall become and be void and of no force or effect, but the affidavit, certificate, letter or statement of any officer of

Assignee stating that any part of the Indebtedness or the Obligations remains unpaid and undischarged shall be and constitute conclusive evidence of the validity, effectiveness or continuing force of this Assignment, and any person, firm or corporation may, and is hereby authorized to, rely thereon. Written demand by Assignee delivered to any Lessee for payment of Rents by reason of the occurrence of any Event of Default claimed by Assignee shall be sufficient evidence of each such Lessee's obligation and authority to make all future payments of Rents to Assignee without the necessity for further consent by the Assignor. Assignor hereby indemnifies and agrees to hold each Lessee free and harmless from and against all liability, loss, cost, damage or expense suffered or incurred by such Lessee by reason of its compliance with any demand for payment of Rents made by Assignee contemplated by the preceding sentence.

#### **ARTICLE 4 WARRANTIES AND REPRESENTATIONS**

Assignor hereby unconditionally warrants and represents to Assignee as follows:

4.1 **Ownership of Leases and Rents.** Assignor is the owner in fee simple absolute of the Mortgaged Property, subject to the Permitted Encumbrances (as defined in the Mortgage), and has good title to the Leases and Rents and all requisite right, power and authority to assign the Leases and Rents, and no other person, firm or corporation has any right, title or interest therein.

4.2 **No Default.** Assignor has duly and punctually performed, all and singular, the terms, covenants, conditions and warranties of the Leases on Assignor's part to be kept, observed and performed; and the Lessees thereunder are not in material default of any of the terms or provisions of the respective Leases.

4.3 **No Modification of Leases or Anticipation or Hypothecation of Rents.** The Leases are valid and unmodified, except as indicated herein, and are in full force and effect; Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due; the Rents now due, or to become due, for any periods subsequent to the date hereof have not been collected more than one (1) month in advance and that payment thereof has not been anticipated more than one (1) month in advance, waived or released, discounted, setoff or otherwise discharged or compromised; Assignor has not received any funds or deposits from any Lessee for which credit has not already been made on account of accrued Rents; and Assignor has not received any bona fide and acceptable offer to purchase the Mortgaged Property or any part thereof which would in any way affect any right or option of first refusal to purchase all or any portion of the property now contained in any Lease; and Assignor has not done anything which might prevent Assignee from or limit Assignee in operating under or enforcing any of the provisions hereof.

#### **ARTICLE 5 AFFIRMATIVE COVENANTS**

Assignor hereby unconditionally covenants and agrees with Assignee as follows:

5.1 **Performance.** Assignor shall observe, perform and discharge, duly and punctually, all and singular, the obligations, terms, covenants, conditions and warranties of the Loan Documents and of the Leases; and Assignor shall give prompt notice to Assignee of any material failure on the part of Assignor to observe, perform and discharge the same or of any claim made by the Lessee of any such failure by Assignor.

5.2 **Notification to Lessees.** Upon request by Assignee, Assignor shall notify and direct, in writing, each and every present or future Lessee or occupant of the Mortgaged Property or of any part thereof that any security deposit or other deposits heretofore delivered to Assignor have been retained by Assignor or assigned and delivered to Assignee, as the case may be.

5.3 **Enforcement.** Assignor shall, in a manner which is commercially reasonable, enforce, short of termination of the Leases, or secure in the name of the Assignee the performance of each and every obligation, term, covenant, condition and agreement in the Leases to be performed by any Lessee, and Assignor shall appear in and defend any action or proceeding arising under, occurring out of or in any manner connected with the Leases or the obligations, duties or liabilities of the Assignor and any Lessee thereunder, and upon request by Assignee, Assignor will do so in the name and on behalf of the Assignee, but at the expense of the Assignor, and Assignor shall pay all costs and expenses of the Assignee, including reasonable attorneys' fees and disbursements, in any action or proceeding in which the Assignee may appear.

5.4 **Anticipation or Hypothecation of Rents.** Without Assignee's prior written consent, Assignor shall neither receive nor collect any Rents from any present or future Lessee for a period of more than one (1) month in advance (whether in cash or by evidence of indebtedness); nor pledge, transfer, mortgage or otherwise encumber or assign future payments of Rents; nor waive, excuse, condone, discount, set off, compromise or in any manner release or discharge any Lessee under any Lease of and from any obligations, covenants, conditions and agreements to be kept, observed and performed by such Lessee, including the obligation to pay Rents thereunder, in the manner and at the time and place specified therein.

5.5 **Execution and Modification of Leases.** Unless Assignor first obtains the written consent of Assignee, Assignor shall not:

- (a) execute any Lease with respect to all or any portion of the Mortgaged Property (other than Approved Leases);
- (b) cancel, terminate or consent to any surrender of any Lease (except as expressly permitted in such Lease);
- (c) commence any action of ejectment or any summary proceedings for dispossession of the Lessee under any Lease (as defined in the Mortgage) or exercise any right of recapture provided in any Lease;
- (d) materially modify or in any way alter the terms of any Lease (other than the Crown Lease) without the prior written consent of Assignee, unless, as so modified, such Lease shall constitute an Approved Lease;

(e) modify or in any way alter the terms of any Crown Lease without the prior written consent of Assignee, which consent shall not be unreasonably withheld, conditioned or delayed;

(f) waive or release the Lessee or any guarantors from any obligations or conditions to be performed by the Lessee or any guarantor under a Lease;

(g) renew or extend the term of any Lease unless an option therefor was originally so reserved by the Lessee and for a fixed and definite rental, or a formula for determining same;

(h) relocate any Lessee within the Mortgaged Property; or

(i) consent to any modification of the express purposes for which the Mortgaged Property has been leased.

5.6 **No Sublease or Assignment.** Assignor shall not consent to any subletting of the Mortgaged Property or any part thereof, nor to any assignment of any Lease by any Lessee thereunder, nor to any assignment or further subletting of any sublease, without obtaining in each instance the prior written consent of Assignee.

5.7 **Delivery of Leases; Further Acts and Assurances.** Until the Indebtedness and the Obligations have been paid in full, Assignor will deliver to the Assignee executed copies of all existing and future Leases when executed upon all or any part of the Mortgaged Property and will transfer and assign future Leases upon the same terms and conditions as herein contained, and Assignor hereby covenants and agrees to make, execute and deliver to Assignee, upon demand and at any time or times, any and all assignments and other documents and instruments which Assignee may deem advisable to carry out the true purpose and intent of this Assignment.

5.8 **No Merger of Estates.** So long as the Indebtedness and the Obligations remain unpaid and unless the Assignee otherwise consents, in writing, the fee and the leasehold estates in and to the Mortgaged Property shall not merge, but shall always remain separate and distinct, notwithstanding the union of such estates (without implying Assignee's consent to such union) either in the Assignor, the Assignee or in any Lessee or in any third party by purchase or otherwise.

5.9 **Leasing Up Mortgaged Property.** Until the Loan is paid in full, Assignor covenants and agrees to keep the Mortgaged Property leased at a good and sufficient rental and on other terms and conditions reasonably acceptable to Assignee.

5.10 **Non-Disturbance Agreement.** Upon request of Assignor, Assignee shall execute a subordination, attornment and non-disturbance agreement with a tenant which has executed a Lease approved by Assignee if such approval is required hereunder, which agreement shall be in form and substance satisfactory to Assignee, in its sole discretion.



## ARTICLE 6 REMEDIES

6.1 **Remedies.** Assignor expressly acknowledges and agrees that upon or any time after the occurrence of an Event of Default, Assignee's right, title and interest in and to the Leases and Rents shall be and remain absolute and inviolate in accordance with the provisions of this Assignment. Moreover, without limiting, altering, affecting or impairing in any manner or to any extent the absolute right, title and interest of an Assignee as provided herein, upon the occurrence of such an Event of Default, Assignee shall have the complete right, power and authority hereunder, then or thereafter, to exercise and enforce any or all of the following rights and remedies:

(a) To terminate the License and then and thereafter, with or without taking possession of the Mortgaged Property, in Assignor's own name, to demand, collect, receive, sue for, attach and levy on the Rents and give proper receipts, releases and acquittances therefor, and after deducting all necessary and proper costs and expenses of operation and collection, as determined by Assignee, including reasonable attorneys' fees, apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, in reduction or repayment of the Indebtedness and the Obligations in such order of priority as Assignee may, in its sole discretion, determine;

(b) To declare the Indebtedness immediately due and payable and, at its option, exercise all of the rights and remedies contained in the Loan Documents; and

(c) Without regard to the adequacy of the security or solvency of Assignor or waste, with or without any action or proceeding through any person or by any agent or trustee, or by a receiver to be appointed by a court of competent jurisdiction, and irrespective of the Assignor's possession, then or thereafter to enter upon, take possession of, manage and operate the Mortgaged Property or any part thereof; make, modify, enforce, cancel or accept surrender of any Lease now in effect or hereafter in effect on the Mortgaged Property or any part thereof; remove and evict any Lessee; increase or decrease Rents under any Lease; decorate, clean and repair, and otherwise do any act or incur any cost or expense which Assignee may deem reasonably necessary to protect the status and value of the Mortgaged Property as fully and to the same extent as Assignor could do if in possession thereof; and in such event, to apply the Rents so collected to the operation and management of the Mortgaged Property, but in such order or priority as Assignee shall deem proper, and including the payment of reasonable management, brokerage and attorneys' fees and disbursements, and payment of the Indebtedness and the Obligations and to the establishment and maintenance, without interest, of a reserve for replacements.

(d) Make or do any payments or acts which Assignor fails to make or do in such manner and to such extent as Assignee may deem necessary to protect the Mortgaged Property or any Lease, including the right to appear in and defend any action or proceeding purporting to affect the Mortgaged Property or any Lease or the rights or powers of Assignee and also the right to perform and discharge each and every obligation, covenant and agreement of Assignor contained in any Lease and in exercising any such powers to pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees.

Any remedy provided herein may, if not exercised prior to foreclosure sale pursuant to the Mortgage, be exercised at any time during the period of redemption from foreclosure sale whether or not an Event of Default exists and whether or not any deficiency remains after a foreclosure sale.

6.2 **Exculpation of Assignee.** The acceptance by Assignee of this Assignment, with all of the rights, powers, privileges and authority created hereby, shall not, prior to entry upon and taking possession of the Mortgaged Property by Assignee, be deemed or construed to constitute Assignee a “**mortgage in possession,**” nor thereafter or at any time or in any event obligate the Assignee to appear in or defend any action or proceeding relating to the Leases, the Rents or the Mortgaged Property or to take any action hereunder or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under any Lease or to assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any Lessee and not assigned and delivered to Assignee or obligate Assignee to lease the Mortgaged Property or attempt to do the same, nor shall Assignee be liable in any way for any injury or damage to persons or property sustained by any person, firm or corporation in or about the Mortgaged Property.

6.3 **No Waiver or Election of Remedies.**

(a) **Waiver.** Neither the collection of the Rents and application as provided for in this Assignment nor the entry upon and taking possession of the Mortgaged Property by Assignee shall be deemed to cure or waive any Event of Default or waive, modify or affect any notice of default under any Loan Document or invalidate any act done pursuant to any such notice. The enforcement of any such right or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect, notwithstanding that the collection and application of the Rents may have cured the original Event of Default. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent Event of Default.

(b) **Election of Remedies.** The failure of the Assignee to assert any of the terms, covenants and conditions of this Assignment for any period of time or at any time or times shall not be construed or deemed to be a waiver of any such right, and nothing herein contained nor anything done or omitted to be done by Assignee pursuant to this Assignment shall be deemed to be an election of remedies or a waiver by Assignee of any of its rights and remedies under any other Loan Document or under the law. The right of the Assignee to collect and enforce the payment of the Indebtedness and performance of the Obligations and to enforce any security therefor may be exercised by the Assignee either prior to or simultaneously with or subsequent to any action taken hereunder.

6.4 **Appointment of Attorney-in-Fact.**

(a) **Rents.** Subject to the License described and limited in Paragraphs 3.1 and 7.1 hereof, Assignor hereby constitutes and appoints Assignee the true and lawful attorney (which appointment shall be currently effective but exercisable by Assignee only after the occurrence of an Event of Default), coupled with an interest, of the Assignor and in the name,

place and stead of Assignor to demand, sue for, attach, levy, recover and receive all Rents and any premium or penalty payable upon the exercise by any Lessee under any Lease of a privilege of cancellation originally provided in such Lease and to give proper receipts, releases and acquittances therefor and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion of the Indebtedness or the Obligations selected by Assignee, notwithstanding the fact that such portion of the Indebtedness or the Obligations may not then be due and payable or that such portion of the Indebtedness or the Obligations is otherwise adequately secured; and upon an Event of Default, Assignor does hereby authorize and direct any such Lessee to deliver such payment to Assignee in accordance with this Assignment, and Assignor hereby ratifies and confirms all that its said attorney, the Assignee, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment is irrevocable and continuing, and such rights, powers and privileges shall be exclusive in Assignee, its successors and assigns, so long as any part of the Indebtedness or the Obligations secured hereby remain unpaid. A Lessee need not inquire into the authority of Assignee to collect any rents, and its obligations to Lessor shall be absolutely discharged to the extent of any payment to Assignee.

(b) **Leases.** Subject to the License described and limited in Paragraphs 3.1 and 7.1 above, Assignor hereby constitutes and appoints Assignee the true and lawful attorney (which appointment shall be currently effective but exercisable by Assignee only after the occurrence of an Event of Default), coupled with an interest, of the Assignor and in the name, place and stead of said Assignor to subject and subordinate at any time and from time to time any Lease or any part thereof to the lien and security interest of the Mortgage or any other mortgage, Mortgage or security agreement on or to any ground lease of the Mortgaged Property, or to request or require such subordination, where such reservation, option or authority was reserved to the Assignor under any such Lease, or in any case where the Assignor otherwise would have the right, power or privilege so to do. The foregoing appointment is irrevocable and continuing, and such rights, powers and privileges shall be exclusive in Assignee, its successors and assigns, so long as any part of the Indebtedness or the Obligations secured hereby remain unpaid, and Assignor hereby warrants that Assignor has not at any time prior to the date hereof exercised any such right and Assignor hereby covenants not to exercise any such right, to subordinate any such Lease to the lien of the deed of trust or to any other mortgage, deed of trust or security agreement.

6.5 **Assignor's Indemnities.** Assignor hereby agrees to indemnify and hold the Assignee free and harmless from and against any and all liability, loss, cost, damage or expense which Assignee may incur under or by reason of this Assignment, or for any action taken by the Assignee hereunder, or by reason or in defense of any and all claims and demands whatsoever which may be asserted against Assignee arising out of the Leases, including specifically, but without limitation, any claim by any Lessee of credit for Rents paid to and received by Assignor, but not delivered to Assignee, for any period under any Lease more than one (1) month in advance of the due date thereof. In the event the Assignee incurs any such liability, loss, cost, damage or expense, the amount thereof, including reasonable attorneys' fees, with interest thereon at the Default Rate specified in the Note, shall be payable by Assignor to Assignee immediately, without demand, and shall be secured hereby and by all other security for the payment and performance of the Indebtedness and the Obligations, including specifically, but without limitation, the lien and security interest of the Mortgage; provided, however, such indemnity shall not apply to any such losses caused solely by the acts or omissions of Assignee

occurring after the Mortgage has been foreclosed (or Assignee has accepted a deed or other conveyance in lieu thereof).

## ARTICLE 7 MISCELLANEOUS

7.1 **Performance at Assignor's Expense.** The cost and expense of performing or complying with any and all of the Obligations shall be borne solely by Assignor, and no portion of such cost and expense (except to the extent that certain costs and expenses are included within the definition of "**Indebtedness**") shall be, in any way and to any extent, credited against any installment on or portion of the Indebtedness.

7.2 **Survival of Obligations.** Each and all of the Obligations shall survive the execution and delivery of the Loan Documents and the consummation of the loan called for therein, and shall continue in full force and effect until the Indebtedness shall have been paid in full.

7.3 **Further Assurances.** Assignor, upon the request of Assignee, will execute, acknowledge, deliver and record and/or file such further instruments and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of the Loan Documents and to subject to the liens and security interests thereof any property intended by the terms thereof to be covered thereby, including specifically, but without limitation, any renewals, substitutions, replacements, modifications or amendments to the Leases.

7.4 **Recording and Filing.** Assignor will cause the Loan Documents and all amendments and supplements thereto and substitutions therefor to be recorded, filed, re-recorded and refiled in such manner and in such places as Assignee shall reasonably request, and will pay all such recording, filing, re-recording and re-filing taxes, fees and other charges.

7.5 **Notices.** All notices or other communications required or permitted shall be given pursuant to Section 10.13 of the Loan Agreement.

7.6 **Successors and Assigns.** All of the terms of the Loan Documents shall apply to, be binding upon and inure to the benefit of the parties hereto, their successors, assigns, heirs and legal representatives, and all other persons claiming by, through or under them.

7.7 **No Waiver; Severability.** Any failure by Assignee to insist, or any election by Assignee not to insist, upon strict performance by Assignor of any of the terms, provisions or conditions of this Assignment or the other Loan Documents shall not be deemed to be a waiver of same or of any other terms, provisions or conditions thereof; and Assignee shall have the right at any time or times thereafter to insist upon strict performance by Assignor of any and all of such terms, provisions and conditions. This Assignment and the other Loan Documents are intended to be performed in accordance with, and only to the extent permitted by, all applicable legal requirements. If any provision of this Assignment or any of the other Loan Documents or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, then neither the remainder of the instrument in which such provision is contained nor the application of such provision to other persons or circumstances nor the other

instruments referred to hereinabove shall be affected thereby, but rather, shall be enforced to the greatest extent permitted by law.

7.8 **Entire Agreement and Modification.** This Assignment and the other Loan Documents contain the entire agreement between the parties relating to the subject matter hereof and thereof, and all prior agreements relative thereto which are not contained herein or therein are terminated. The Loan Documents may not be amended, revised, waived, released or terminated orally, but only by a written instrument or instruments executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is asserted. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall not be effective as to any party.

7.9 **Counterparts.** This Assignment may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

7.10 **Headings.** The Article, Paragraph and Subparagraph captions hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Paragraphs or Subparagraphs.

7.11 **Parties Bound.** The terms, covenants, conditions and warranties contained herein and the powers granted hereby shall run with the land, shall inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns and all Lessees, and all subtenants and assigns of such Lessees and all subsequent owners of the Mortgaged Property and all subsequent holders of the Note and the other Loan Documents. In this Assignment, whenever the context so requires the masculine gender shall include the feminine and/or neuter and the singular number shall include the plural and conversely in each case. All obligations of each Assignor hereunder shall be joint and several.

7.12 **Applicable Law.** This Assignment shall be construed in accordance with the laws of the State of Nebraska.

7.13 **Venue.** Assignor agrees that venue in any proceeding hereunder shall be proper in any state or federal court having jurisdiction in Philadelphia, Pennsylvania, or the jurisdiction in which the Mortgaged Property is located.

7.14 **Limitation on Agreements.** All agreements between Assignor and Assignee, whether now existing or hereafter arising and whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of acceleration of the maturity of the Note or otherwise, shall the amount paid, or agreed to be paid to Assignee for the use, forbearance, or retention of the money to be loaned under the Loan Agreement or otherwise or for the payment or performance of any covenant or obligation contained herein or in any other document evidencing, securing or pertaining to the Indebtedness or Obligations or to any collateral for the payment or performance thereof, exceed the maximum amount permissible under applicable law. If from any circumstances whatsoever fulfillment of any provision hereof or of any of such other documents, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law, then, ipso facto, the obligation to be

fulfilled shall be reduced to the limit of such validity, and if from any such circumstance Assignee shall ever receive as interest or otherwise an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the principal amount owing on account of the Note or on account of any other principal indebtedness of Assignor to Assignee, and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance of the Note and such other indebtedness, such excess shall be refunded to Assignor. All sums paid or agreed to be paid to Assignee for the use, forbearance or retention of the indebtedness of Assignor to Assignee shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the actual rate of interest on account of such indebtedness is uniform throughout the term thereof. The terms and provisions of this paragraph shall control and supersede every other provision of all agreements between Assignor and Assignee.

7.15 **Waiver of Right to Trial By Jury.** Each party to this Assignment and, by its acceptance hereof, Assignee, hereby expressly waives any right to trial by jury of any claim, demand, action or cause of action (1) arising under this Assignment or any other instrument, document or agreement executed or delivered in connection therewith, or (2) in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to this Assignment or any other instrument, document or agreement executed or delivered in connection herewith, or the transactions related hereto or thereto, in each case whether now existing or hereafter arising, and each party and Assignee hereby agrees and consents that any such claim, demand, action or cause of action shall be decided by court trial without a jury, and that any party to this Assignment and Assignee may file an original counterpart or a copy of this section with any court as written evidence of the consent of the parties hereto and Assignee to the waiver of their right to trial by jury.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor and Assignee have executed and ensealed this Assignment as of the day and year first set forth above.

ASSIGNOR

PATRIOT 72ND STREET, LLC, a Delaware limited liability company

By: [Signature]  
Name: Alan S. Werther  
Title: Exec. Vice President

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF Philadelphia : SS

On this, the 29 day of December, 2006, before me, a Notary Public in and for the Commonwealth of Pennsylvania, personally appeared Alan S. Werther who acknowledged himself to be the Exec. Vice President of PATRIOT 72ND STREET, LLC, a Delaware limited liability company, and that as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

[Signature]  
Notary Public  
My Commission Expires

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
JENNA M. LAMPE, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires April 21, 2008

NOTARIAL SEAL  
REGISTER OF DEEDS

**EXHIBIT A**

**LEGAL DESCRIPTION**



## EXHIBIT A

That part of the Northwest 1/4 of the Northwest 1/4 of Section 1, Township 14 North, Range 12 East of the 6th P.M., in the City of Omaha, Douglas County, Nebraska, described as follows:

Commencing at the Northwest corner of the Northwest 1/4 of said Section 1; thence South  $00^{\circ}00'00''$  East (assumed bearing) for 74.56 feet along said West line of said Northwest 1/4; thence North  $90^{\circ}00'00''$  East for 42.00 feet to the East right-of-way line of 72nd Street and the True Point of Beginning; thence North  $22^{\circ}32'21''$  East for 23.92 feet along the Easterly right-of-way line of 72nd Street to the South right-of-way line of the railroad; thence (the next seven courses are along the South right-of-way line of the railroad) (1) North  $89^{\circ}57'23''$  East for 543.82 feet; thence (2) along a curve to the right (having a radius of 328.27 feet and a long chord bearing South  $79^{\circ}03'37''$  East for 125.09 feet) for an arc distance of 125.86 feet; thence (3) South  $68^{\circ}04'37''$  East for 100.70 feet; thence (4) along a curve to the left (having a radius of 348.27 feet and a long chord bearing North  $89^{\circ}45'38''$  East for 262.76 feet) for an arc distance of 269.43 feet; thence (5) South  $37^{\circ}30'07''$  East for 21.60 feet; thence (6) along a curve to the left (having a radius of 329.62 feet and a long chord bearing North  $60^{\circ}38'38''$  East for 21.33 feet) for an arc distance of 21.33 feet; thence (7) North  $48^{\circ}47'23''$  East for 128.00 feet to the South right-of-way line of "F" Street; thence North  $89^{\circ}57'20''$  East for 118.34 feet along said South right-of-way line; thence South  $00^{\circ}01'37''$  East for 664.91 feet; thence South  $08^{\circ}36'07''$  West for 466.50 feet; thence South  $50^{\circ}17'12''$  West for 233.92 feet; thence North  $89^{\circ}56'35''$  West for 1026.86 feet to the East right-of-way line of 72nd Street; thence North  $00^{\circ}00'00''$  East for 1231.52 feet along said East right-of-way to the True Point of Beginning.

Together with the benefit of the Perpetual Easement for existing utility connections and access purposes of the existing driveway as set forth in the Instrument recorded January 16, 1958 in Book 1030 at Page 359, in the office of the Register of Deed of Douglas County, Nebraska.