



MISC- 2007071758



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Loan No. V_64935

~~PREPARED BY AND AFTER
RECORDING RETURN TO:~~

~~Stites & Harbison, PLLC
424 Church Street, Suite 1800
Nashville, Tennessee 37219
Attention: James C. Cotey, Esq.~~

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2007071758

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS ("**Assignment**") made as of the 25 day of June, 2007, by BURLINGTON PLACE, LLC, a Nebraska limited liability company having its principal place of business at 1004 Farnam Street, Suite 400, Omaha, Nebraska 68102 ("**Borrower**"), as assignor, to JPMORGAN CHASE BANK, N.A., a banking association chartered under the laws of the United States of America, as assignee, having its principal place of business at 270 Park Avenue, New York, New York 10017 ("**Lender**").

RECITALS:

Borrower by its promissory note of even date herewith given to Lender is indebted to Lender in the principal sum of \$ 3,250,000.00 in lawful money of the United States of America (together with all extensions, renewals, modifications, substitutions and amendments thereof, the "**Note**"), with interest from the date thereof at the rates set forth in the Note, and with principal and interest to be payable in accordance with the terms and conditions provided in the Note, and with a final maturity date of July 1, 2017.

Borrower desires to secure the payment and performance of all of its obligations under the Note and the Obligations as defined in Article 2 of the Security Instrument (defined below).

ARTICLE 1 - ASSIGNMENT

Section 1.1 PROPERTY ASSIGNED. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby absolutely and

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unconditionally assigns and grants to Lender and grants a security interest in favor of Lender the following property, rights, interests and estates, now owned, or hereafter acquired by Borrower:

(a) Leases. All leases affecting the use, enjoyment, or occupancy of all or any part of that certain lot or piece of land, more particularly described in Exhibit A annexed hereto and made a part hereof, together with the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon and the right, title and interest of Borrower, its successors and assigns, therein and thereunder.

(b) Other Leases and Agreements. All other leases and other agreements, whether or not in writing, affecting the use, enjoyment or occupancy of the Property (as defined in the Security Instrument) or any portion thereof now or hereafter made, whether made before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "**Bankruptcy Code**"), together with any extension, renewal or replacement of the same. This Assignment of other present and future leases and present and future agreements shall be effective without further or supplemental assignment. The leases described in Subsection 1.1(a) and the leases and other agreements described in this Subsection 1.1(b), together with all other present and future leases and present and future agreements and any extension or renewal of the same are collectively referred to as the "**Leases**" and individually referred to as a "**Lease**."

(c) Rents. All rents, income, issues, revenues and profits arising from the Leases and renewals thereof and together with all rents, income, issues and profits from the use, enjoyment and occupancy of the Property (including, but not limited to, minimum rents, additional rents, percentage rents, deficiency rents, security deposits and liquidated damages following default under any Leases, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by damage to any part of the Property, all of Borrower's rights to recover monetary amounts from any lessee in bankruptcy including, without limitation, rights of recovery for use and occupancy and damage claims arising out of Lease defaults, including rejection of a Lease, together with any sums of money that may now or at any time hereafter be or become due and payable to Borrower by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and all future oil, gas and mining Leases covering the Property or any part thereof, and all proceeds and other amounts paid or owing to Borrower under or pursuant to any and all contracts and bonds relating to the construction, erection or renovation of the Property) (all of the rights described above hereinafter collectively referred to as the "**Rents**").

(d) Bankruptcy Claims. All of Borrower's claims and rights (the "**Bankruptcy Claims**") to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code.

(e) Lease Guaranties. All of Borrower's right, title and interest in and claims under any and all lease guaranties, letters of credit and any other credit support given by any guarantor in connection with any of the Leases (individually, a "**Lease Guarantor**," collectively, the "**Lease Guarantors**") to Borrower (individually, a "**Lease Guaranty**," collectively, the "**Lease Guaranties**").

(f) Proceeds. All proceeds from the sale or other disposition of the Leases, the Rents, the Lease Guaranties and the Bankruptcy Claims.

(g) Other. All rights, powers, privileges, options and other benefits of Borrower as lessor under the Leases and beneficiary under the Lease Guaranties, including without limitation the immediate and continuing right to make claim for, receive, collect and receipt for all Rents payable or receivable under the Leases and all sums payable under the Lease Guaranties or pursuant thereto (and to apply the same to the payment of the Debt or the Other Obligations), and to do all other things which Borrower or any lessor is or may become entitled to do under the Leases or the Lease Guaranties.

(h) Entry. The right, at Lender's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents.

(i) Power of Attorney. Borrower's irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth in Article 5 of this Assignment and any or all other actions designated by Lender for the proper management and preservation of the Property.

Section 1.2 CONSIDERATION. This Assignment is made in consideration of that certain loan made by Lender to Borrower evidenced by the Note and secured by that certain mortgage and security agreement, deed of trust and security agreement, deed to secure debt and security agreement or similar real estate security instrument given by Borrower to or for the benefit of Lender, dated the date hereof, covering the Property and intended to be duly recorded (the "**Security Instrument**"). The principal sum, interest and all other sums due and payable under the Note, the Security Instrument, this Assignment and the Other Loan Documents (defined below) are collectively referred to as the "**Debt**." The documents other than this Assignment, the Note or the Security Instrument now or hereafter executed by Borrower and/or others and by or in favor of Lender which wholly or partially secure or guarantee payment of the Debt or otherwise related thereto are referred to herein as the "**Other Loan Documents**." Unless otherwise herein defined, all initially capitalized terms shall have the meanings given such terms in the Security Instrument.

ARTICLE 2 - REPRESENTATIONS AND COVENANTS

Section 2.1 BORROWER'S REPRESENTATIONS. Borrower warrants to Lender that (a) Borrower is the sole owner of the entire lessor's interest and the lessor named in the Leases; (b) to the best of Borrower's knowledge the Leases are valid, enforceable and in full force and effect and have not been altered, modified or amended in any manner whatsoever except as disclosed to Lender; (c) neither the Leases nor the Rents reserved in the Leases have been assigned or otherwise pledged or hypothecated; (d) to the best of Borrower's knowledge none of the Rents have been collected for more than one (1) month in advance except as shown on Exhibit C to Closing Certificate; (e) Borrower has full power and authority to execute and deliver this Assignment and the execution and delivery of this Assignment has been duly authorized and does not conflict with or constitute a default under any law, judicial order or other agreement affecting Borrower or the Property; (f) the premises demised under the Leases have

been completed and lessees under the Leases have accepted the same and have taken possession of the same on a rent-paying basis except as explicitly identified on the certified rent roll dated as of the end of the month preceding the month hereof, delivered by Borrower to Lender; and (g) there exist no offsets or defenses to the payment of any portion of the Rents.

ARTICLE 3 - COVENANTS

Section 3.1 ADMINISTRATION. Borrower covenants with Lender that Borrower (a) shall observe and perform all the obligations imposed upon the lessor under the Leases and shall not do or permit to be done anything to impair the value of the Leases as security for the Debt; (b) shall promptly send to Lender copies of all notices of default which Borrower shall receive under the Leases; (c) shall not collect any Rents more than one (1) month in advance (notwithstanding the foregoing Borrower may collect up to 12 months of rent in advance for Leases comprising in the aggregate less than five percent (5%) of the rental income for the Property); (d) shall not execute any other assignment of lessor's interest in the Leases or the Rents; (e) shall execute and deliver at the request of Lender all such further assurances, confirmations and assignments in connection with the Property as Lender shall from time to time require; (f) shall deliver to Lender, upon request, tenant estoppel certificates from each commercial lessee at the Property in form and substance reasonably satisfactory to Lender (provided, however, that Borrower shall not be required to deliver such certificates more frequently than one (1) time in any calendar year unless Borrower is in default under the Security Instrument); and (g) shall deliver to Lender executed copies of all Leases now existing or hereafter arising.

Section 3.2 ENFORCEMENT AND MODIFICATIONS. Borrower further covenants with Lender that Borrower (a) shall promptly send to Lender copies of all notices of default which Borrower shall send to lessees under the Leases; (b) shall enforce all of the terms, covenants and conditions contained in the Leases upon the part of the lessees thereunder to be observed or performed, short of termination thereof; (c) shall enforce all of the terms, conditions and covenants contained in reciprocal easement agreements upon the part of lessees or Borrower thereunder to be performed, short of termination thereof; (d) shall not enter into new "Material Leases" (as such term is defined in Section 3.4 hereof) or alter, modify or change the terms of the Material Leases, or cancel or terminate the Material Leases or accept a surrender thereof or take any other action which would effect a merger of the estates and rights of, or a termination or diminution of the obligations of, lessees thereunder or cancel or terminate any Lease without in each case the prior written consent of Lender; provided, however, that any Lease that is not a Material Lease may be canceled or terminated if at the time of cancellation or termination thereof a new Lease is entered into on substantially the same terms or more favorable terms as the canceled Lease; (e) shall not alter, modify or change the terms of any guaranty of any of the Material Leases or cancel or terminate any guaranty of any Lease without the prior written consent of Lender; (f) shall not consent to any assignment of or subletting under the Material Leases not in accordance with their terms, without the prior written consent of Lender; and (g) shall not waive, release, reduce, discount or otherwise discharge or compromise the payment of any of the Rents to accrue under the Leases.

Section 3.3 LEASE TERMS. Borrower further covenants with Lender that (a) from and after the date of this Assignment, all Leases shall be written on the standard form of lease

which has been approved by Lender; (b) Borrower shall furnish Lender with executed copies of all Leases; (c) no material changes may be made to the Lender-approved standard lease without the prior written consent of Lender; (d) all renewals of Leases and all proposed Leases shall provide for rental rates comparable to existing local market rates and shall be arm's-length transactions with bona fide, independent third-party tenants and, unless not required under Section 3.4 below, shall be submitted to Lender for its approval or disapproval before execution; and (e) all Leases executed after the date of this Assignment shall provide that (i) they are subordinate to the Security Instrument and any other indebtedness now or hereafter secured by the Property, (ii) each lessee agrees to attorn to Lender (such attornment to be automatically effective upon Lender's acquisition of title to the Property), (iii) each lessee agrees to execute such further evidences of attornment as Lender may from time to time request, (iv) the attornment of each lessee shall not be terminated by foreclosure, (v) Lender may, at Lender's sole option, accept or reject such attornment, and (vi) each lessee agrees to furnish, one (1) time in any calendar year, as Lender may request, a certificate signed by lessee confirming and containing such factual considerations and representations deemed reasonably appropriate by Lender. Provided that if a new Lease is not a Material Lease and meets the requirements of this Section 3.3, then Borrower shall have no obligation to obtain Lender's approval thereof.

Section 3.4 MATERIAL LEASES. Notwithstanding anything to the contrary contained in this Assignment, and provided that no Event of Default (as defined in the Security Instrument) shall exist and be continuing, the following terms and provisions shall apply:

(a) Lender's consent shall not be required for modifications, extensions or renewals of Leases that are not Material Leases. For purposes of this Assignment, the term "Material Leases" shall mean (i) a Lease of more than fifteen percent (15%) of the rentable square feet of the Property, or (ii) a Lease providing for more than fifteen percent (15%) of the gross rent payable under all Leases at the Property; and

(b) Lender's consent shall not be required for termination of a Lease that is not a Material Lease if the lessee under such Lease is in default beyond all applicable notice and grace periods.

Section 3.5 RENTAL OFFSETS. If Borrower becomes aware that any lessee proposes to do, or is doing, any act or thing which may give rise to any right of set-off against Rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against Rent, (ii) notify Lender thereof and of the amount of said set-offs, and (iii) within ten (10) days after such accrual for a valid set-off, reimburse lessee who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall effectively assure that Rents thereafter due shall continue to be payable without set-off or deduction.

Section 3.6 WRAP LEASE.

(a) "Existing Lease" shall mean, as the context may require, either or both of (i) that certain lease by and between America First Companies, L.L.C. (predecessor-in-interest to Borrower), as landlord, and America First PM Group, Inc., as tenant, and dated as of November 8, 2004, with respect to suites 100 and 103; and (ii) that certain lease by and between The

Burlington Capital Group, LLC (predecessor-in-interest to Borrower) as landlord, and America First Apartment Investors Inc., as tenant, and dated as of January 12, 2006, with respect to suite 201.

(b) **“Existing Tenant”** shall mean, as the context may require, either or both of America First PM Group, Inc., with respect to suites 100 and 103, and America First Apartment Investors Inc. with respect to suite 201.

(c) **“Wrap Lease”** shall mean, as the context may require, either or both of (i) that certain lease by and between Borrower, as landlord, and Wrap Tenant (as defined hereinafter), as tenant, and dated as of the date hereof, with respect to suites 100 and 103; and (ii) that certain lease by and between Borrower, as landlord, and Wrap Tenant, as tenant, and dated as of the date hereof, with respect to suite 201.

(d) **“Wrap Premises”** shall mean, as the context may require, Suite 201 or Suites 100 and 103 together, or collectively, Suites 100, 103, and 201.

(e) **“Wrap Tenant”** shall mean The Burlington Capital Group, LLC.

(f) Each Wrap Lease contains terms substantially similar to the corresponding Existing Lease and Wrap Tenant’s obligations thereunder commence in the event of (A) a default or breach by the Existing Tenant under the Existing Lease that results in the termination of the Existing Lease, or (B) a failure by the Existing Tenant to either extend the term of the Existing Lease or renew the Existing Lease in accordance with the terms of the Existing Lease. For the purposes hereof, the Wrap Lease shall be a Material Lease. Lender shall consent to a termination of the Wrap Lease upon the earlier to occur of the following:

(i) Borrower’s delivery to Lender of an amendment to the Existing Lease executed by the Borrower and the Existing Tenant, extending the term of the Existing Lease until at least November 7, 2010, with rents no less than the rents existing under the Existing Lease, and with all other terms remaining the same as, or more favorable than, the terms of the Existing Lease;

(ii) November 8, 2009, provided that Existing Tenant has not provided Borrower with notice of Existing Tenant’s desire to not exercise any of the three (3) automatic renewal options set forth in the Existing Lease;

(iii) Leases for all of the Wrap Premises shall have been executed by new tenants of comparable credit quality to the Existing Tenant, with equal or greater rents and with a termination date no earlier than November 7, 2010, such tenants shall be in physical occupancy of the Wrap Premises and paying rent, and the Lender shall have received copies of such executed Leases and tenant estoppels with respect to the such new Leases. In the event the preceding Lease conditions are satisfied as to one but not both of the Wrap Premises, Lender shall consent to a termination of the respective Wrap Lease; or

(iv) November 7, 2010, the expiration date set forth in the Wrap Lease.

(g) Notwithstanding anything to the contrary set forth in the Loan Documents (including without limitation, this Assignment), so long as the Wrap Lease remains in place and has not been terminated, upon an event of default or breach under the Existing Lease by Existing Tenant, Borrower shall use its best efforts to terminate the Existing Lease, unless such breach has been cured to Borrower's and Lender's satisfaction.

ARTICLE 4 - TERMS OF ASSIGNMENT

Section 4.1 PRESENT ASSIGNMENT AND LICENSE BACK. Borrower intends that this Assignment constitute a present, absolute and unconditional assignment and not an assignment for additional security only. Such assignment to Lender shall not be construed to bind Lender to the performance of any of the covenants, conditions, or provisions contained in any of the Leases or otherwise to impose any obligation upon Lender. Borrower agrees to execute and deliver to Lender such additional instruments, in form and substance satisfactory to Lender, as may hereinafter be requested by Lender to further evidence and confirm said assignment. Lender is hereby granted and assigned by Borrower the right to enter the Property for the purpose of enforcing its interest in the Leases and the Rents. Nevertheless, subject to the terms of this Section 4.1, Lender grants to Borrower a revocable license to operate and manage the Property and to collect the Rents. Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt for use in the payment of such sums. Upon a Default (as hereinafter defined), the license granted to Borrower herein shall automatically be revoked and Lender shall immediately be entitled to possess and apply all Rents, whether or not Lender enters upon and takes control of the Property. Borrower hereby grants and assigns to Lender the right, at its option, upon the revocation of the license granted herein to enter upon the Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of the license herein granted may be applied toward payment of the Debt in such priority and proportion as Lender, in its discretion, shall deem proper.

ARTICLE 5 - REMEDIES

Section 5.1 REMEDIES OF LENDER. Upon or at any time after the occurrence of a default under this Assignment or an Event of Default (a "**Default**"), the license granted to Borrower in Section 4.1 of this Assignment shall automatically be revoked, and Lender shall immediately be entitled to possession of all Rents and sums due under any Lease Guaranties, whether or not Lender enters upon or takes control of the Property. In addition, Lender may, at its option, without waiving such Default, without notice and without regard to the adequacy of the security for the Debt, either in person or by agent, nominee or attorney, with or without bringing any action or proceeding, or by a receiver appointed by a court, dispossess Borrower and its agents and servants from the Property, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of the Property and all books, records and accounts relating thereto and have, hold, manage, lease and operate the Property on such terms and for such period of time as Lender may deem proper and either with or without taking possession of the Property in its own name, demand, sue for or otherwise collect and receive all Rents and sums due under all Lease Guaranties, including those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Lender and may apply the Rents

and sums received pursuant to any Lease Guaranties to the payment of the following in such order and proportion as Lender in its sole discretion may determine, any law, custom or use to the contrary notwithstanding: (a) all expenses of managing and securing the Property, including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees or agents as Lender may deem necessary or desirable and all expenses of operating and maintaining the Property, including, without being limited thereto, all taxes, charges, claims, assessments, water charges, sewer rents and any other liens, and premiums for all insurance which Lender may deem necessary or desirable, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Property; and (b) the Debt, together with all costs and reasonable attorneys' fees. In addition, upon the occurrence of a Default, Lender, at its option, may (i) complete any construction on the Property in such manner and form as Lender deems advisable, (ii) exercise all rights and powers of Borrower, including, without limitation, the right to negotiate, execute, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents from the Property and all sums due under any Lease Guaranties, (iii) either require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupancy of such part of the Property as may be in possession of Borrower, or (iv) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise.

Section 5.2 OTHER REMEDIES. Nothing contained in this Assignment and no act done or omitted by Lender pursuant to the power and rights granted to Lender hereunder shall be deemed to be a waiver by Lender of its rights and remedies under the Note, the Security Instrument, or the Other Loan Documents and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Lender under the terms thereof. The right of Lender to collect the Debt and to enforce any other security therefor held by it may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Borrower hereby absolutely, unconditionally and irrevocably waives any and all rights to assert any setoff, counterclaim or crossclaim of any nature whatsoever with respect to the obligations of Borrower under this Assignment, the Note, the Security Instrument, the Other Loan Documents or otherwise with respect to the loan secured hereby in any action or proceeding brought by Lender to collect same, or any portion thereof, or to enforce and realize upon the lien and security interest created by this Assignment, the Note, the Security Instrument, or any of the Other Loan Documents (provided, however, that the foregoing shall not be deemed a waiver of Borrower's right to assert any compulsory counterclaim if such counterclaim is compelled under local law or rule of procedure, nor shall the foregoing be deemed a waiver of Borrower's right to assert any claim which would constitute a defense, setoff, counterclaim or crossclaim of any nature whatsoever against Lender in any separate action or proceeding).

Section 5.3 NOTICE TO LESSEES. Borrower hereby agrees to authorize and direct the lessees named in the Leases or any other or future lessees or occupants of the Property and all Lease Guarantors to pay over to Lender or to such other party as Lender directs all Rents and all sums due under any Lease Guaranties upon receipt from Lender of written notice to the effect that Lender is then the holder of the Security Instrument and that a Default (defined above) exists, and to continue so to do until otherwise notified by Lender.

Section 5.4 OTHER SECURITY. Lender may take or release other security for the payment of the Debt, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the reduction or satisfaction of the Debt without prejudice to any of its rights under this Assignment.

Section 5.5 NON-WAIVER. The exercise by Lender of the option granted it in Section 5.1 of this Assignment and the collection of the Rents and sums due under the Lease Guaranties and the application thereof as herein provided shall not be considered a waiver of any default by Borrower under the Note, the Security Instrument, the Leases, this Assignment or the Other Loan Documents. The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Assignment. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (a) the failure of Lender to comply with any request of Borrower or any other party to take any action to enforce any of the provisions hereof or of the Security Instrument, the Note or the Other Loan Documents, (b) the release regardless of consideration, of the whole or any part of the Property, or (c) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of this Assignment, the Note, the Security Instrument or the Other Loan Documents. Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take any action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to enforce its rights under this Assignment. The rights of Lender under this Assignment shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

Section 5.6 BANKRUPTCY.

(a) Upon or at any time after the occurrence of a Default, Lender shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code, and Borrower, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Lender not less than ten (10) Business Days' prior notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject the Lease. Lender shall have the right, but not the obligation, to serve upon Borrower within such ten-day period a notice stating that (i) Lender demands that Borrower assume and assign the Lease to Lender pursuant to Section 365 of the Bankruptcy Code, and (ii) Lender covenants to cure or provide adequate assurance of future performance under the Lease. If Lender serves upon Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Lender of the covenant provided for in clause (ii) of the preceding sentence.

ARTICLE 6 - NO LIABILITY, FURTHER ASSURANCES

Section 6.1 NO LIABILITY OF LENDER. This Assignment shall not be construed to bind Lender to the performance of any of the covenants, conditions or provisions contained in any Lease or Lease Guaranty or otherwise impose any obligation upon Lender. Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let the Property after a Default or from any other act or omission of Lender in managing the Property after a Default unless such loss is caused by the willful misconduct and bad faith of Lender. Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or any Lease Guaranties or under or by reason of this Assignment and Borrower shall, and hereby agrees, to indemnify Lender for, and to hold Lender harmless from, any and all liability, loss or damage which may or might be incurred under the Leases, any Lease Guaranties or under or by reason of this Assignment and from any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Lender by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases or any Lease Guaranties. Should Lender incur any such liability, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured by this Assignment and by the Security Instrument and the Other Loan Documents and Borrower shall reimburse Lender therefor immediately upon demand and upon the failure of Borrower so to do Lender may, at its option, declare all sums secured by this Assignment and by the Security Instrument and the Other Loan Documents immediately due and payable. This Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor for the carrying out of any of the terms and conditions of the Leases or any Lease Guaranties; nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property, including without limitation the presence of any Hazardous Substances (as defined in the Security Instrument), or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

Section 6.2 NO MORTGAGEE IN POSSESSION. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Property by Lender. In the exercise of the powers herein granted Lender, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Borrower.

Section 6.3 FURTHER ASSURANCES. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, conveyances, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, require for the better assuring, conveying, assigning, transferring and confirming unto Lender the property and rights hereby assigned or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Assignment or for filing, registering or recording this Assignment and, on demand, will execute and deliver and hereby authorizes Lender to execute in the name of Borrower to the extent Lender may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien and security interest hereof in and upon the Leases.

ARTICLE 7 - SECONDARY MARKET

Section 7.1 TRANSFER OF LOAN. Lender may, at any time, sell, transfer or assign the Note, the Security Instrument, this Assignment and the Other Loan Documents, and any or all servicing rights with respect thereto, or grant participations therein or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement. Lender may forward to each purchaser, transferee, assignee, servicer, participant, investor in such securities or any credit rating agency rating such securities (collectively, the "Investor") and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Debt and to Borrower, any guarantor and the Property, whether furnished by Borrower, any guarantor or otherwise, as Lender determines necessary or desirable.

ARTICLE 8 - DEPOSITS, RELOCATIONS

Section 8.1 SECURITY DEPOSITS. All security deposits of lessees, whether held in cash or any other form, shall be treated by Borrower as trust funds. If prohibited by applicable law, such security deposits shall not be commingled with any other funds of Borrower and, if cash, shall be deposited by Borrower in one or more segregated accounts at such commercial or savings bank or banks as is reasonably satisfactory to Lender. Any bond or other instrument which Borrower is permitted to hold in lieu of cash security deposits under applicable legal requirements (i) shall be maintained in full force and effect unless replaced by cash deposits as hereinabove described, (ii) shall be issued by an entity reasonably satisfactory to Lender, (iii) shall, if permitted pursuant to legal requirements, name Lender as payee or beneficiary thereunder (or at Lender's option, subject to applicable legal requirements, be fully assignable to Lender), and (iv) shall, in all respects, comply with applicable legal requirements and otherwise be reasonably satisfactory to Lender. Borrower shall, upon request, provide Lender with evidence reasonably satisfactory to Lender of Borrower's compliance with the foregoing. Following the occurrence and during the continuance of any Event of Default, Borrower shall, upon Lender's request, if permitted by applicable legal requirements, turn over to Lender the security deposits (and any interest theretofore earned thereon) with respect to all or any portion of the Property, to be held by Lender subject to the terms of the Leases.

Section 8.2 RELOCATIONS. In no event shall Borrower exercise any right to relocate any lessee outside the Property pursuant to any right set forth in a Lease without the prior written consent of Lender.

ARTICLE 9 - MISCELLANEOUS PROVISIONS

Section 9.1 CONFLICT OF TERMS. In case of any conflict between the terms of this Assignment and the terms of the Security Instrument, the terms of the Security Instrument shall prevail.

Section 9.2 NO ORAL CHANGE. This Assignment and any provisions hereof may not be modified, amended, waived, extended, changed, discharged or terminated orally, or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing

signed by the party against whom the enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 9.3 CERTAIN DEFINITIONS. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Assignment may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or interest therein," the word "Lender" shall mean "Lender and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by the Security Instrument," the word "person" shall include an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, and any other entity, the word "Property" shall include any portion of the Property and any interest therein, the phrases "attorneys' fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder, and the word "Debt" shall mean the principal balance of the Note with interest thereon as provided in the Note and the Security Instrument and all other sums due pursuant to the Note, the Security Instrument, this Assignment and the Other Loan Documents; whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 9.4 AUTHORITY. Borrower represents and warrants that it has full power and authority to execute and deliver this Assignment and the execution and delivery of this Assignment has been duly authorized and does not conflict with or constitute a default under any law, judicial order or other agreement affecting Borrower or the Property.

Section 9.5 INAPPLICABLE PROVISIONS. If any term, covenant or condition of this Assignment is held to be invalid, illegal or unenforceable in any respect, this Assignment shall be construed without such provision.

Section 9.6 DUPLICATE ORIGINALS; COUNTERPARTS. This Assignment may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original. This Assignment may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Assignment. The failure of any party hereto to execute this Assignment, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 9.7 CHOICE OF LAW. This Assignment shall be governed by and construed in accordance with the applicable federal laws and laws of the state where the Property is located, without reference or giving effect to any choice of law doctrine.

Section 9.8 TERMINATION OF ASSIGNMENT. Upon payment in full of the Debt and the delivery and recording of a satisfaction or discharge of Security Instrument duly executed by Lender, this Assignment shall become and be void and of no effect.

Section 9.9 NOTICES. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged, (ii) one (1) Business Day (hereinafter defined) after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, addressed as follows:

If to Borrower: Burlington Place, LLC
1004 Farnam Street, Suite 400
Omaha, Nebraska 68102
Attention: Mark Hiatt
Facsimile No.: (402) 930-3047

If to Lender: JPMorgan Chase Bank, N.A.
c/o Centerline Servicing Inc.
5221 North O'Connor Boulevard, Suite 600
Irving, Texas 75039
Attention: Wesley Wolf
Senior Vice President, Asset Management
Facsimile No.: (972) 868-5493

With a copy to: Stites & Harbison, PLLC
400 W. Market Street
Suite 1800
Louisville, Kentucky 40202
Attention: Barry A. Hines, Esq.
Facsimile No.: (502) 587-6391

or addressed as such party may from time to time designate by written notice to the other parties. For purposes of this Section 9.9, the term "**Business Day**" shall mean a day on which commercial banks are not authorized or required by law to close in New York, New York.

Any party by notice to the other parties may designate additional or different addresses for subsequent notices or communications.

Section 9.10 WAIVER OF TRIAL BY JURY. **BORROWER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN EVIDENCED BY THE NOTE, THE APPLICATION FOR THE LOAN EVIDENCED BY THE NOTE, THIS ASSIGNMENT, THE NOTE, THE SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS OR ANY ACTS OR OMISSIONS OF LENDER, ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.**

Section 9.11 SUBMISSION TO JURISDICTION. Borrower hereby irrevocably submits to the jurisdiction of any court of competent jurisdiction located in the state in which the

property is located in connection with any proceeding arising out of or relating to this Assignment.

Section 9.12 LIABILITY. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Assignment shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 9.13 HEADINGS, ETC. The headings and captions of various paragraphs of this Assignment are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 9.14 NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

THIS ASSIGNMENT, together with the covenants and warranties therein contained, shall inure to the benefit of Lender and any subsequent holder of the Security Instrument and shall be binding upon Borrower, its heirs, executors, administrators, successors and assigns and any subsequent owner of the Property.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Borrower has executed this instrument effective the day and year first above written.

BORROWER:

BURLINGTON PLACE, LLC, a Nebraska limited liability company

By: 
DOMINIC VACCARO, Vice President

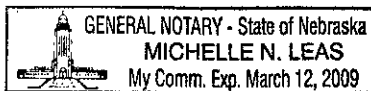
STATE OF NEBRASKA

COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me this 5TH day of JUNE, 2007, by DOMINIC VACCARO as the Vice President of Burlington Place, LLC, a Nebraska limited liability company.

My commission expires: 3-12-09

[SEAL]




Notary Public

EXHIBIT A-1

(Description of Land)

All of that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being described as follows:

The South 62.2 feet of the East 89.25 feet of Lot 7 and the East 89.25 feet of Lot 8, in Block 123, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska.