

Oct. 15, 2004c

ASSIGNMENT OF LEASES AND RENTS

163 Jackson Road, Newton, MA

This Assignment of Leases and Rents is from CITIZENS FOR AFFORDABLE HOUSING IN NEWTON DEVELOPMENT ORGANIZATION, INC., a Massachusetts non-profit corporation, with a business address at 1075 Washington Street, Newton, Massachusetts 02465, as assignor (herein called the "Borrower") to MHIC, LLC, a Massachusetts limited liability company, having its principal address at 70 Federal Street, Boston, Massachusetts 02110, as assignee (herein called the "Lender").

DEFINITIONS

LOAN AMOUNT                    \$525,000.00

NOTE                                That certain Note dated the date hereof from Borrower, as maker, to the Lender, as payee in the Loan Amount.

LOAN DOCUMENTS                The Note, as it may be amended, extended and renewed, and any mortgage, security agreement, assignment of leases and rents, loan agreement or other agreement heretofore, now or hereafter executed to secure, or entered into otherwise in connection with, the Obligations (defined below), including, without limitation, the indebtedness evidenced by the Note, and including without limitation a certain Mortgage and Security Agreement and this Assignment of Leases and Rents, relative to the Mortgaged Premises, all of even or near even date herewith between the Borrower and the Lender.

MORTGAGED PREMISES        The Mortgaged Premises consists of the parcel of real estate located in Newton, Massachusetts, all as more completely described in Exhibit A hereto, together with all buildings and other improvements and all fixtures and personal property now or hereafter situated thereon all as more particularly described in the Mortgage and Security Agreement.

All capitalized words or phrases shall have the meaning assigned in this Assignment or in the other Loan Documents.

1.     Assignment. For valuable consideration paid, the Borrower assigns to the Lender, its successors and assigns, the entire lessor's interest in all leases, rental agreements and occupancy agreements, recorded and unrecorded, as they may be renewed and extended, if any (collectively the "Leases") now or hereafter existing with respect to all or any portion of the Mortgaged Premises, including without limitation all rents, income and profits arising from the Leases and from all use and occupancy of the Mortgaged Premises.

This Assignment secures the payment of the Loan Amount, with interest and all other charges evidenced by the Note, as same may be amended, renewed and extended; payment of all other sums becoming due and payable to the Lender under this Assignment and all other Loan Documents; and performance of all obligations, covenant and agreements of the Borrower to the Lender contained in the Note and all other Loan Documents (collectively, the "Obligations").

As further security for the Obligations, Borrower assigns to Lender any awards or payments which may be made in respect of Borrower's interest in any of the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court. Borrower appoints Lender as its attorney-in-fact to appear in any such proceeding and to collect any such award or payment.

2. Warranties and Covenants. The Borrower warrants that the Borrower, if and when the Borrower enters into a Lease, will be the sole owner of the entire lessor's interest in the Leases, including, without limitation, all rights to receive rent and all other amounts due or to become due to the lessor under the Leases, with full right and power to assign its interest in the Leases and the rents and profits due under the Leases, that each of the Leases will be in full force and effect with no monetary defaults and no non-monetary material defaults thereunder and that no rent reserved in the Leases has been assigned or anticipated except as assigned in this Assignment and except as assigned to subordinate lenders, approved by the Lender, all of which assignments to subordinate lender are subordinate to this assignment.

The Borrower covenants with the Lender: (i) to observe and perform all the obligations imposed upon the lessor under each Lease and not to do or permit to be done anything to impair the security of any Leases; (ii) not to collect any of the rent, income and profits arising or accruing under the Leases or from the Mortgaged Premises more than one month in advance of the time when the same shall become due (other than security deposits and last month's rent for residential apartments); (iii) not to execute any other assignment of lessor's interest in the Leases or in the rents due under the Leases or accruing from the Mortgaged Premises; (iv) not to enter into any new lease of any part of the Mortgaged Premises, without the Lender's prior written consent on each occasion, which consent may be withheld if the same might, in the Lender's judgment, impair the value of the Mortgaged Premises; and (v) to execute and deliver all such further assurances and assignments in the Mortgaged Premises and the Leases as the Lender from time to time requires.

3. Condition of Assignment. This Assignment is made on the following terms and conditions:

(a) Although this Assignment constitutes a present, current and absolute assignment, so long as the Borrower is not in default beyond any applicable grace period in the payment of the Loan Amount, interest or charges due under the Note, or any other indebtedness secured by any Loan Document or in the payment or performance of any other Obligation, or in any other default, beyond any applicable grace period, under any Loan Document, Lender shall not demand that the rents, income and profits be paid directly to Lender and the Borrower shall have

the right to collect, when due, all rents, income and profits from the Leases and the Mortgaged Premises and to retain, use and enjoy the same.

(b) Upon or at any time after default beyond any applicable grace period in the payment of the Loan Amount, interest or charges due under the Note, or any other indebtedness secured by any Loan Document, or in the payment or performance of any other Obligation, or after any other default, beyond any applicable grace period, under any Loan Document, the Lender, may at its option, without notice, without regard to the adequacy of other security for the Obligations and without in any way waiving such default, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, either take possession of the Mortgaged Premises and lease and operate the Mortgaged Premises to the same extent as the Borrower might do for such period of time as the Lender may deem proper, or without taking possession of the Mortgaged Premises, in its own name or in the Borrower's name, collect and receive all rents, income and profits of the Leases and Mortgaged Premises (by legal action if appropriate in the Lender's judgment), enter into new leases, renew, alter, amend, cancel or surrender leases existing from time to time, or deal in any other way with tenants, always with full power to make all alterations, renovations, repairs and replacements to the Mortgaged Premises as may seem proper to the Lender from time to time to preserve their value as security for payment and performance of the Obligations; and to apply such rents, income and profits in such order of priority as the Lender in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding, to the payment of:

- (i) all expenses of managing, leasing, operating and maintaining the Mortgaged Premises, including, without limitation, the cost of a management agent and all taxes, charges, claims, assessments, water rents, sewer rents and other liens, and premiums for all insurance which the Lender may deem appropriate, payment or refund of security deposits and interest due thereon, all expenses of alterations, renovations, repairs or replacements to the Mortgaged Premises and all expenses incident to taking and retaining possession of the Mortgaged Premises; and
- (ii) all Obligations.

The Lender's exercise of the right to collect the rents, income and profits shall not be considered a waiver by the Lender of any default in any Obligation.

4. Evidence of Continuing Effectiveness. Upon full payment to the Lender of the Loan Amount, interest and other charges due under the Note and all other indebtedness secured by the Loan Documents, this Assignment shall be void and of no further effect, but the affidavit, certificate, letter or statement of any officer, agent, or attorney for the Lender asserting that any of such indebtedness remains unpaid shall be conclusive evidence that this Assignment is still in force and effect and any person may, and is authorized and directed by the Borrower to rely thereon. The Borrower authorizes and directs all lessees and occupants of the Mortgaged Premises, upon receipt from the Lender of written notice to the effect that the Lender is then the holder of the Note and that a default exists as described in this Assignment (and notwithstanding any notice or claim by the Borrower to the contrary), to pay over to the Lender all rents, income

and profits accruing under the Leases and from the Mortgaged Premises and to continue to do so until otherwise notified by the Lender, and the Borrower waives any claim the Borrower might have against such lessees or occupants for rent or other amounts paid to the Lender, reserving all the Borrower's rights therein solely to a claim against the Lender.

5. No Waiver. Nothing contained in this Assignment, and no act done or omitted by the Lender pursuant to the powers and rights granted to the Lender under this Assignment, shall be deemed to be a waiver by the Lender of its rights and remedies under the Note or any other Loan Document, and this Assignment is made and accepted without prejudice to any of the rights and remedies of the Lender under the terms of the Note and other Loan Documents. The Lender's right to collect the Loan Amount, interest and other charges and all other Obligations and to enforce any other security therefor all may be exercised by the Lender either prior to, simultaneously with or subsequent to any action taken under this Assignment.

6. Lender Not Liable. This Assignment is granted solely to secure the payment and performance of all Obligations and shall not operate to place responsibility for the control, management or repair of the Mortgaged Premises on the Lender, or for the carrying out of any of the terms and conditions of the Leases; and it shall not operate to make the Lender responsible or liable for any waste committed on the Mortgaged Premises by tenants or any other parties, or for any dangerous or defective condition of the Mortgaged Premises or for any negligence in the management, upkeep, repair or control of the Mortgaged Premises resulting in loss, injury or death to any tenant, licensee, employee or stranger or for other loss with respect to the Mortgaged Premises suffered by the Borrower.

The Lender shall not be liable for any loss sustained by the Borrower resulting from the Lender's failure to rent the Mortgaged Premises, or from performing lessor's obligations under the Leases or from any other act or omission of the Lender in managing the Mortgaged Premises unless such loss is caused by the Lender's willful misconduct and bad faith. The Lender shall not be obligated to perform or discharge, and the Lender has not undertaken to perform or discharge, any obligation, duty or liability under the Leases or under or by reason of this Assignment, and the Borrower hereby indemnifies the Lender for, and holds the Lender harmless from any and all liability, loss or damage which the Lender may incur under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against the Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should the Lender incur any such liability under the Leases or under or by reason of this Assignment or in defense of any such claims or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured by the Mortgage And Security Agreement, this Assignment and each other Loan Document and shall bear interest at the rate provided in the Note, and the Borrower shall reimburse the Lender therefor immediately upon demand and on the failure of the Borrower so to do, the Lender may, at its option, declare all Obligations secured by this Assignment immediately due and payable.

7. Notices. Any demand, notice or request by either party to the other under this Assignment or under any other Loan Document shall be sufficiently given if in writing delivered

to the party intended to receive the same, or mailed by certified mail addressed to such party, as to the Lender, to its principal office from time to time, and as to the Borrower, at the Borrower's Notice Address set forth on the signature page hereof, or in either case to such other address as may be stated in a notice delivered or mailed as provided in this Assignment.

8. Binding Effect; Time of the Essence; Headings. This Assignment shall inure to the benefit of, and be binding on, the Borrower and the Lender and their respective successors and assigns, and upon discharge of the Mortgage and Security Agreement shall cease to be of any force and effect.

9. Amendment. This Assignment can be amended or otherwise altered, terminated or discharged only by a writing signed by the party to be charged therewith.

EXECUTED as a sealed instrument under Massachusetts law as of the 15th day of October, 2004.

Citizens for Affordable Housing in Newton  
Development Organization, Inc.

By Josephine McNeil

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

October 15, 2004

On this \_\_\_\_\_ day of October, 2004, before me, the undersigned Notary Public, personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of Citizens for Affordable Housing in Newton Development Organization, Inc., provided to me by satisfactory evidence of identification being [ ] driver's license or other state or federal government document bearing a photographic image, [ ] my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires:

BORROWER'S NOTICE ADDRESS  
1075 Washington Street  
Newton, MA 02465

## EXHIBIT A

### Legal Description

A certain parcel of land with the buildings thereon situated in Newton, being Lots No. 29 and 30 on a plan of Jackson Terrace made by F. T. Westcott, C.E. dated October, 1908 and recorded with Middlesex South District Deeds Plan Book 175, Plan 6 and bounded and described as follows:

Beginning at a point on the easterly side of Wiltshire Court, as shown on said plan, at the division line between lots numbered 28 and 29, thence running southeasterly along said lot numbered 28 one hundred eight and 45/100 (108.45) feet more or less; thence turning and running northeasterly forty (40) feet; thence turning and running northwesterly along lot numbered 31 on said plan one hundred forty-two and 70/100 (142.70) feet more or less to said Wiltshire Court; thence turning and running southeasterly along said Wiltshire Court fifty-four and 86/100 (54.86) feet to the point of beginning.

For title see deed from Walter Tobin, Trustee of Tobin Nominee Trust to be recorded herewith.

The Post Office Address of the Premises is 163 Jackson Road, Newton, Massachusetts 02158.

Oct. 15, 2004  
Copy

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

Property Address: 163 Jackson Road, Newton, Massachusetts

This Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing (this "Mortgage") is made by the Borrower (as defined below) in favor of the Lender (as defined below).

**I. Definitions**

The following terms shall have the meanings assigned to them:

Borrower	Citizens for Affordable Housing in Newton Development Organization, Inc.
The Borrower's Address	1075 Washington Street, Newton, MA 02465
Lender	MHIC, LLC
The Lender's Address	70 Federal Street, Boston, MA 02110
Loan Amount (Principal)	\$525,000.00
Note	That certain Note dated the date hereof from the Borrower as maker, to the Lender, as payee, in the Loan Amount
Hazardous Materials:	Any "chemical substances", "hazardous or toxic substances", "hazardous or toxic materials", "hazardous or toxic wastes" and "oil," as such terms now or hereafter are respectively defined under the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C., Section 9601 et seq., the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, Chapter 21E of the Massachusetts General Laws, the Federal Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Section 1321 et seq., the Federal

Clean Water Act, 33 U.S.C. Section 1251, et seq., the Occupational Safety and Health Act of 1970, 29 U.S.C. Section 651 et seq., the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., or the Massachusetts Hazardous Waste Management Act, Chapter 21C of the Massachusetts General Laws or listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. 172.101), and the regulations promulgated under all of the foregoing, as all of the foregoing may from time to time be amended, or as similar such laws, rules, regulations, orders and decrees may now or hereafter be enacted; including, without limitation, asbestos, asbestos-containing materials, oil or other petroleum products, polychlorinated biphenyls, urea formaldehyde foam insulation ("UFFI"), lead paint and other toxic waste and substances including radon gas.

- Land: The land located at the Property Address specified above as more completely described in Exhibit A attached hereto and made a part hereof, together with all improvements, including fixtures, now or hereafter situated thereon.
- Land Records: Middlesex (South) Registry of Deeds
- Loan: The loan from the Lender to the Borrower described in the Loan Agreement and evidenced by the Note.
- Loan Agreement: That certain Loan Agreement of even date between the Lender and the Borrower relating to the indebtedness evidenced by the Note.
- Loan Documents: Collectively, the Note, the Loan Agreement, this Mortgage as well as each and every other document, instrument and agreement now or hereafter executed or delivered in connection with the indebtedness evidenced by the Note, as each may be amended, extended, modified or renewed.
- Mortgaged Property: The Real Estate and Personal Property collectively.
- Real Estate: The Land, together with all and singular the tenements, hereditaments and appurtenances



thereof, and all easements, rights of way, licenses, permits, privileges and covenants now existing or hereafter created for the benefit of the Borrower or any subsequent owner or tenant of the Land, or any part thereof, as well as all right, title and interest of the Borrower in and to the land lying within any street or roadway adjoining the Land, and all machinery, equipment, appliances, furniture and other property of every type and nature as are or can by agreement be made a part of the realty as well as all fixtures of every type and nature, whether now owned or which may subsequently be acquired by the Borrower.

All capitalized words and phrases in this Mortgage which are not otherwise specifically defined above or elsewhere in this Mortgage shall have the same meaning as assigned in the other Loan Documents.

## II. Grant of Mortgage

The Borrower, for consideration paid, hereby conveys, mortgages, transfers, assigns, sets-over and grants to the Lender WITH MORTGAGE COVENANTS the Mortgaged Property to secure the payment, performance and discharge of each and every obligation, covenant and agreement of the Borrower to the Lender contained herein, in the Note, or in the other Loan Documents (collectively, referred to as the "Obligations").

## III. Grant of Security Interest in Personal Property

This instrument shall also constitute a security agreement under Article 9 of the Uniform Commercial Code as in effect in Massachusetts and codified at G.L. Chapter 106 (the "Uniform Commercial Code"). To secure the Obligations, the Borrower hereby grants to the Lender a continuing security interest in all personal property and fixtures of every kind and description now or hereafter owned by the Borrower or in which the Borrower has an interest (but only to the extent of such interest), situated or to be situated upon or used, or intended for use, in connection with the Real Estate, together with any renewals, replacements or additions thereto or substitutions therefor, as well as all proceeds thereof, whether now or hereafter existing (collectively, the "Personal Property"). The Personal Property shall include, without limitation, the following:

- A. Equipment, Plans, etc.: All of the Borrower's interest in and to all Equipment, Fixtures, Goods, Accessions, materials, supplies, furnishings, Accounts, choses in action, contract rights, Documents, Instruments,

Chattel Paper, plans and specifications, reports, studies, professional or technical work product, shop drawings, surveys, soil studies, permits, licenses, approvals, warranties and General Intangibles, located at, arising from, relating to, or used in connection with the Real Estate;

- B. Proceeds: All proceeds (including, without limitation, insurance and condemnation proceeds), as well as all interest earned thereon, paid for any damage done to the Real Estate or for any portion thereof appropriated or otherwise taken by any governmental authority, agency, or entity;
- C. Rents and Contracts: All of Borrower's right, title and interest in and to any and all leases or other agreements for the use or occupancy of all or any portion of the Real Estate and all rents, security deposits, guarantees and other proceeds and benefits of such leases and other agreements, as well as any sales contracts (including any deposit funds paid thereunder), in each case relating to or arising from the Real Estate;
- D. Records and Goodwill: All tradenames, trademarks, telephone numbers, goodwill, general intangibles and other similar property as well as all records and books of account, in each case relating to the Borrower's ownership or operation of the Real Estate; and
- E. Escrows and Reserves: All of Borrower's right, title and interest in any insurance, tax, water, sewer or other escrows deposited with Lender; any operating debt service, replacement or other reserves deposited with Lender; any other escrows or reserves established for the Project; and any cash collateral deposited with Lender.

Unless otherwise provided herein, all capitalized terms in the foregoing subparagraphs, not defined in the Loan Agreement, shall have the same meanings as defined in the Uniform Commercial Code.

The Lender shall have all the rights and remedies, in addition to those specified herein, of a secured party under the Uniform Commercial Code. Except for the security interest granted hereby, the Borrower is, and as to any Personal Property acquired hereafter will be, the sole owner of the Personal Property, free from any lien, security interest, encumbrances, or adverse claims thereon of any kind whatsoever. The Borrower shall notify the Lender of, and will defend the Personal Property

against, all claims and demands of all persons at any time claiming the same or any interest therein.

This Mortgage and Security Agreement is to be filed with the Land Records as a financing statement pursuant to Section 9-402 of the Uniform Commercial Code.

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The Borrower covenants, warrants, represents and agrees with the Lender, its successors and assigns, that:

1. Performance of Obligations. The Borrower and any endorser and guarantor of the Note shall pay the principal of the Note and interest thereon as the same shall become due and payable and shall pay and perform all of the other Obligations.
2. Title; Further Assurances. The Borrower is the owner of the Mortgaged Property and has good right, full power and lawful authority to grant this Mortgage. The Mortgaged Property is free and clear of all encumbrances except those enumerated on the policy of title insurance delivered by the Borrower to the Lender in connection with this loan transaction (the "Permitted Title Exceptions"). The Borrower will make further assurances of title that the Lender may require. The Borrower shall notify the Lender of, and will defend the Mortgaged Property against, all claims and demands of all persons at any time claiming the same or any interest therein. The Borrower agrees to execute and deliver on demand such other mortgages and other instruments as the Lender may request in order to perfect its mortgage upon any of the Mortgaged Property.
3. Protection and Maintenance. The Borrower will protect and maintain or cause to be protected and maintained in good and tenantable order, repair and condition at all times (damage by casualty expressly not excepted) the buildings and other structures now standing or hereafter erected on the Land, and any additions and improvements thereto and the utility services, parking areas and access roads and all building fixtures, equipment and articles of Personal Property now or hereafter acquired and used in connection with the operation of the Real Estate, promptly replacing any of the aforesaid which may become lost, destroyed or unsuitable for use with other property of similar character and quality.

4. No Waste; Compliance With Law. The Borrower shall not commit or suffer any strip or waste of the Mortgaged Property, or any portion thereof, or any violation of any law, rule, regulation, ordinance, license, or permit, or the requirements of any licensing authority affecting the Mortgaged Property or any business conducted thereon, and shall not commit or suffer any demolition, removal, or material alteration of any of the Mortgaged Property (except for the replacement of fixtures and Personal Property in the ordinary course of business, so long as items of comparable value and quality are installed free and clear of liens in favor of any other party), and shall not violate or suffer the violation of the covenants and agreements, if any, of record against the Mortgaged Property, and in all respects, the Borrower shall do all things necessary to comply with, and to keep in full force and effect, all licenses, permits and other governmental authorizations for the operation of the Mortgaged Property for its intended purposes.
5. Insurance Coverage. The Borrower will keep the buildings, improvements, fixtures and Personal Property included in the Mortgaged Property insured in accordance with the Loan Agreement.
6. Insurance Proceeds. The proceeds of any hazard insurance and rent loss insurance shall, at the discretion of the Lender, be applied to or toward the indebtedness or other Obligations secured hereby in such order as the Lender may determine; or if the Lender shall require repair of that part of the Mortgaged Property so damaged by such insured hazard, the Lender shall release to the Borrower insurance proceeds paid to it upon such conditions as the Lender may prescribe and the Borrower shall apply all of such proceeds to the repair and restoration of the Mortgaged Property. The Borrower shall promptly notify the Lender upon the occurrence of any loss or claim, and, except with respect to amounts less than \$2,500, at the Lender's option in each instance, the Lender, to the exclusion of the Borrower, shall have the right and authority to file any proofs of claim and negotiate any adjustment or settlement thereof. Each insurance company is hereby directed and authorized to remit all payments (including the return of unearned premiums) directly to the Lender alone and not to the Borrower or to the Borrower and Lender jointly. Notwithstanding anything in this Section 6 to the contrary, if the insurer denies liability to the Borrower, the Borrower shall not be relieved of any obligation under Section 3 of this Mortgage. If, however, the Lender applies

insurance proceeds to repayment of the Loan Amount and does not release the same to the Borrower, the obligation of the Borrower under Section 3 to repair, restore or rebuild shall be limited to taking all actions reasonably required to make the Mortgaged Property safe and in compliance with all legal requirements and to restore the undamaged portion to an economically functional unit to the extent that it is reasonably possible to do so.

7. Eminent Domain. The awards of damages on account of any condemnation for public use of or injury to the Mortgaged Property shall be paid to the Lender; such awards shall, at the discretion of the Lender, be applied to or toward the Obligations in such order as the Lender may determine, or, at the Lender's discretion, may be released to the Borrower, upon such conditions as the Lender in its judgment may prescribe, to be applied to restoration of that part of the Mortgaged Property which remains, but not more than such portion of such awards as may be required to repair such damage or injury and restore the Mortgaged Property to whole shall be so released; and any balance remaining shall be applied by the Lender to or toward the indebtedness and other Obligations secured hereby in such order as the Lender in its discretion shall determine. The Borrower shall promptly notify the Lender upon the occurrence of any such award or condemnation proceeding or claim, and, at the Lender's option in each instance, the Lender, to the exclusion of the Borrower, shall have the right and authority to file any proofs of claim and to negotiate any award or settlement thereof. Each governmental body is hereby directed and authorized to remit all payments to the Lender alone and not to the Borrower or to the Borrower and Lender jointly. If the Lender applies such awards to repayment of the Loan Amount and does not release the same to the Borrower, the obligation of the Borrower under Section 3 to repair, restore or rebuild shall be limited to the taking of all actions reasonably required to make the Mortgaged Property, or what remains thereof, safe and in compliance with all legal requirements and to restore the remaining portion to an economically functional unit to the extent that it is reasonably possible to do so.
8. Due on Sale; No Transfer of Ownership Interests; Failure to Comply With Permitted Exceptions. It shall be an Event of default under the Loan Agreement if, without the Lender's prior written consent in each instance, which consent may be granted, withheld, or conditionally granted in the Lender's sole discretion:

(a) there is any sale, conveyance, transfer, or encumbrance of all or any portion of the Mortgaged Property; or (b) there is any transfer or assignment of, or grant of any security interest in, any of the ownership interests in the Borrower; or (c) there is a failure to comply with the provisions of, or there is a default under, any of the Permitted Title Exceptions which is not cured within any applicable grace period provided for therein.

9. Lender's Rights to Deal With Borrower's Successors. The Lender may, without notice to any person, deal with any successor in interest of the Borrower regarding this Mortgage and the Obligations in all respects as it might deal with the Borrower, without in any way affecting the liability of the Borrower or any successor in interest of the Borrower; and no sale of all or any part of the Mortgaged Property, nor any forbearance on the part of the Lender, nor any extension by the Lender of the time for payment and performance of the Obligations, shall operate to release, discharge, modify, change, or affect the liability of any predecessor in interest to the equity owner at the time of such sale, forbearance, or extension.
10. Payment of Taxes. The Borrower will pay before delinquent or before any penalty for nonpayment attaches thereto, all taxes, assessments, and charges of every nature and to whomever assessed that may now or hereafter be levied or assessed upon the Mortgaged Property or any part thereof, or upon the rents, issues, income, or profits thereof or upon the lien or estate hereby created, whether any or all of said taxes, assessments, or charges be levied directly or indirectly or as excise taxes or as income taxes. The obligation to pay certain taxes, assessments and charges may be satisfied by payment to Lender of adequate reserves therefor pursuant to the Loan Agreement and timely submission to Lender of bills or invoices therefor as required under the Loan Agreement.
11. Tax, Water and Sewer and Insurance Reserves. The Borrower shall maintain tax, water and sewer and insurance reserves in accordance with the Loan Agreement.
12. No Other Liens. The Borrower will pay all sums which, if unpaid, may result in the acquisition of a lien of superior or inferior priority to the lien of this Mortgage, such payment to be made before such lien

attaches (except that real estate taxes need not be paid prior to the due date thereof).

13. Hazardous Materials and Environmental Legal Requirements.

A. The Borrower shall comply with the following environmental requirements:

(i) Borrower shall not store (except in compliance with all applicable laws, ordinances and regulations), or dispose of any Hazardous Materials at, upon, under or within the Mortgaged Property or any contiguous or adjacent real estate or property.

(ii) Borrower shall not directly or indirectly transport or arrange for the transport of any Hazardous Materials (except in compliance with all applicable laws, ordinances and regulations).

(iii) Upon learning of the presence, release or threat of release of any Hazardous Materials at, upon, under or within the Mortgaged Property, Borrower shall take all such reasonable action as shall be prudent in light of the severity of such presence, release or threat of release, including, without limitation the conducting of engineering tests (at the sole expense of Borrower) by an independent and reputable engineering firm or environmental consultant, (x) to assess the presence, release, threat of release or absence of any Hazardous Materials at, upon, under or within the Mortgaged Property and the potential cost in connection with any abatement, clean-up or removal of any of the Hazardous Materials found at, upon, under or within the Mortgaged Property, and (y) to contain and remove any such Hazardous Materials at, upon, under or within the Mortgaged Property.

(iv) Borrower shall notify Lender immediately in writing (x) upon Borrower's obtaining knowledge of any potential or known release, threat of release, discharge or discovery of any Hazardous Materials at, upon, under or within the Mortgaged Property or any contiguous or adjacent real estate or property; (y) upon Borrower's receipt of any notice to such effect from any government agency (and Borrower shall forward to Lender copies of all orders, notices, applications or other communications and reports in connection with any such matter); and (z) upon Borrower's obtaining

knowledge of any incurrence of any expense or loss by such governmental agency in connection with the assessment, containment or removal of any Hazardous Materials for which expense or loss Borrower may be liable or for which expense a lien may be imposed on the Mortgaged Property.

(v) Borrower shall permit Lender, at Borrower's expense, to conduct environmental inspections, surveys or audits of the Mortgaged Property to the extent reasonably deemed necessary or appropriate by Lender in connection with protecting Lender's rights and interests in and to the Loan and the Mortgaged Property. The Lender's entry onto the Mortgaged Property for the limited purpose of investigating the presence or absence of Hazardous Materials on or in the vicinity of the Mortgaged Property (including, by way of illustration and not limitation, verifying the character, quantity, location, migration, and sources thereof) or pursuing any Corrective Work (as hereinafter defined) shall not be deemed an entry for possession of the Mortgaged Property, and shall create no liabilities or obligations in the Lender related to or arising from the ownership, possession, or operation of the Mortgaged Property.

B. Borrower covenants and agrees, at its sole cost and expense, to indemnify, protect and save harmless the Lender, and its directors, officers, agents, attorneys and employees (collectively, any "Indemnitee" or the "Indemnites") against and from any and all damages, losses, liabilities, costs and expenses of Corrective Work, obligations, penalties, fines, impositions, fees, levies, lien removal or bonding costs, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses (including, without limitation, attorneys' and experts' reasonable fees and disbursements) of any kind or of any nature whatsoever, including interest thereon pursuant to the Loan Documents and applicable statutes (collectively, the "Indemnified Matters") which may at any time be imposed upon, incurred by or asserted or awarded against any Indemnitee and arising from or out of or attributable to or by reason of:

(i) any discharge of any Hazardous Materials, the threat of a release or discharge of any Hazardous Materials, or the presence of any Hazardous



Materials at, upon, under, within or otherwise affecting the Mortgaged Property or any other contiguous or adjacent real estate or other property by reason of occurrences at, upon, under or within the Mortgaged Property, such contiguous or adjacent real estate or other property or other site or vessel, whether or not the same originates or emanates from the Mortgaged Property or such contiguous or adjacent real estate or other property;

(ii) any costs of removal or remedial action incurred by any governmental agency, any response costs incurred by any other person, and damages to, destruction of, or loss of natural resources, including, without limitation, costs of assessing such injury, destruction or loss incurred pursuant to all applicable laws, ordinances or regulations;

(iii) additional costs reasonably required to take necessary precautions to protect against the release of Hazardous Materials from the Mortgaged Property into the air, any body of water, any other public domain or any surrounding areas;

(iv) costs incurred to comply, in connection with all or any portion of the Mortgaged Property or any surrounding areas, with all applicable laws, ordinances and regulations and any other environmental matters at, upon, under or within or otherwise affecting the Mortgaged Property or any contiguous or adjacent real estate or other property by reason of occurrences at, upon, under, within the Mortgaged Property or any contiguous or adjacent real estate or other property, including costs related to nonperformance or delayed performance and completion of Corrective Work;

(v) liability for personal injury or damage arising under any statutory or common law theory, including, without limitation, damages for the maintenance of a public or private nuisance or for the carrying on of an abnormally dangerous activity or operation on, at, under or within any of the Mortgaged Property or any real estate or other property contiguous or adjacent thereto;

(vi) any Indemnified Matter resulting from the presence of lead paint at the Mortgaged Property or arising directly or indirectly under the Massachusetts Lead Paint Law, G.L. c. 111, §190, et seq.;

(vii) any Indemnified Matter arising directly or indirectly from or out of the presence of UFFI at the Mortgaged Property;

(viii) any defense of any of the foregoing and the assertion by Borrower of any defense to its obligations hereunder (except the successful defense of actual performance not subject to further appeal);

whether any of such matters arise before, during or after foreclosure of any mortgage or other taking of title to all or any portion of the Mortgaged Property or other enforcement of the remedies and rights under the Loan Documents, by Lender or any affiliate of Lender (all removal work referred to in clause (ii) above, all work and other actions to take precautions against release referred to in clause (iii) above, and all work and other actions performed in order to comply with applicable laws, ordinances and regulations referred to in clause (iv) above shall be herein collectively referred to as "Corrective Work"). Notwithstanding anything to the contrary contained herein, (a) the indemnifications provided for hereunder with respect to surrounding areas shall not extend to the costs of Corrective Work on, in, under or affecting any surrounding areas if the applicable Hazardous Materials did not originate from any portion of the Mortgaged Property unless the removal of any Hazardous Materials on, in, under or affecting any surrounding areas is required by law or by order or directive of any governmental agency in connection with the Corrective Work on, in, under or affecting any portion of the Mortgaged Property; (b) if Lender, or any affiliate, successor or assign of Lender takes title to the Mortgaged Property at a foreclosure sale, by deed in lieu of foreclosure, pursuant to other rights granted under any Loan Document or otherwise, or if a third-party takes title to the Mortgaged Property at a foreclosure sale, then the indemnifications provided for hereunder shall not apply to Hazardous Materials which are initially placed on, in or under all or any portion of the Mortgaged Property after the date the Lender or such other party so takes title.

C. The indemnifications set forth above in this Section 13 shall be full recourse obligations of the Borrower and shall not be subject to any

nonrecourse language contained in the Note and shall survive the repayment of the Loan and any exercise by any Indemnitee of any remedies under any Loan Document, including, without limitation, the power of sale, or any other remedy in the nature of foreclosure, and shall not merge with any deed given by Borrower to Lender in lieu of foreclosure or any deed under a power of sale. It is agreed and intended by Borrower and Lender that the indemnifications set forth above in this Section 13 may be assigned or otherwise transferred by Lender to its successors and assigns and to any subsequent purchaser of all or any portion of the Mortgaged Property by, through or under Lender, without notice to Borrower and without any further consent of Borrower. To the extent consent to any such assignment or transfer is required by law, advance consent to any such assignment or transfer is hereby given by Borrower.

- D. In addition to Lender's rights to cure Borrower's defaults, Lender shall have the right to do all acts which in the Lender's judgment are or may be necessary or advisable to prevent or respond to the release or threatened release of Hazardous Materials onto or from the Mortgaged Property.

14. Lease Assignment.

- A. The Borrower hereby transfers, assigns, delivers and grants to the Lender as further security for the Obligations the entire lessor's right, title and interest in (a) all leases, subleases, tenancies, and other agreements relative to occupancy of all or any portion of the Mortgaged Property, written or oral, recorded and unrecorded, now in existence and which may exist hereafter during the term of this Mortgage; (b) all rents, income and profits arising from said leases and any renewals, extension or substitutions thereof; (c) all rents, income and profits otherwise payable for the use and occupation of the Mortgaged Property, (d) all guarantees of said leases, and (e) all proceeds of the foregoing (collectively, the "Leases"). In connection therewith, the Borrower agrees to confirm the foregoing assignment from time to time by executing assignments in form satisfactory to the Lender and which authorize the Lender in the event of foreclosure or deed or other transfer in lieu thereof, to sell and assign said interests to

the purchaser(s), but no such assignment shall be construed as a consent by the Lender to any lease or agreement so assigned, or to impose upon the Lender any obligations with respect thereto. The Borrower hereby irrevocably appoints the Lender, or any agent designated by the Lender; its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge, and deliver any such assignments on behalf of the Borrower.

B. The Borrower warrants that (i) the Borrower is the sole owner of the entire lessor's interest in the Leases with full right and power to assign its interest therein and the rents and profits due thereunder; (ii) each of the Leases now existing is in full force and effect and has not been modified or amended; (iii) there are no defaults under the Leases by either party; (iv) no rent reserved in the Leases has been assigned or anticipated except as assigned herein; (v) no lessee under the Leases has any defense, set-off, or counterclaim against the Borrower; and (vi) no rent for any period subsequent to the date of this Mortgage has been or will be collected in advance except for security deposits and last month's rent taken in the usual course of business.

C. The assignment of the Leases is made on the following terms, covenants and conditions:

(i) This assignment is an absolute assignment of the Leases from the Borrower to the Lender, provided, however, so long as there shall exist no Event of default under the Loan Documents, the Borrower shall have a license to manage and operate the Mortgaged Property and to collect, at the time provided in the Leases for the payment thereof, all rents, income and profits arising under the Leases and from the Mortgaged Property and to retain, use and enjoy the same; provided, however, that all rent, income and profits accruing by virtue of the Leases shall be received by the Borrower in trust to be used for the satisfaction of all amounts due under the Loan Documents and all taxes, assessments, insurance premiums, maintenance and utility charges and other amounts necessary for the reasonable operation and maintenance of the Mortgaged Property before being used for any other purpose.

(ii) Upon and at any time after an Event of default under the Loan Documents, the Lender,

without in any way waiving such default, may in its discretion without notice and without regard to the adequacy of the security for the Obligations secured hereby, terminate the aforesaid license and exercise any rights and remedies set forth in this Mortgage, including those set forth in Section 20.B. below, or in the other Loan Documents.

- D. Upon full payment of all the Obligations, the assignment of the Leases shall become and be void and of no effect, but the affidavit, certificate, letter or statement of any officer, agent or attorney of the Lender showing any part of the Obligations to remain unpaid or unperformed shall be and constitute conclusive evidence to third parties of the validity, effectiveness and continuing force of this assignment and any person is hereby conclusively authorized and directed to rely thereon. The Borrower hereby authorizes and directs the tenants named in the Leases and any other or future tenants or occupants of the Mortgaged Property, upon receipt from the Lender of written notice to the effect that the Lender is then the holder of the Note and that a default exists thereunder, to pay over to the Lender all rents, income and profits arising or accruing under that lease or from the Mortgaged Property and to continue to do so until otherwise notified in writing by the Lender and hereby irrevocably waives any claim the Borrower might have against any such tenants or occupants for rent or other amounts paid to the Lender, reserving all the Borrower's rights therein solely to a claim against the Lender.
- E. Upon the occurrence of an Event of default under the Loan Documents and until the Lender terminates the Borrower's license to operate and manage the Mortgaged Property, any and all rents, income and profits received by the Borrower from the Mortgaged Property shall be held in a segregated account in trust for the Lender (the "Trust Fund Account") and shall not be combined with any other funds of the Borrower. Such trust funds may be utilized by the Borrower for reasonable maintenance and repair obligations and utility payments necessary or required under the Leases (but not for capital expenses, improvements or for payments of any management fees owed to any person or entity owned or controlled by or affiliated with the Borrower), provided, however, that a

detailed monthly accounting of all receipts and disbursements shall be delivered to the Lender within ten (10) days after the end of each calendar month.

Upon the request of the Lender at any one time or from time to time, the Borrower shall deliver all amounts contained in the Trust Fund Account (i) to the Lender and the same shall be applied to the outstanding Obligations as provided in the Loan Documents, (ii) to any other party designated by the Lender which has a lien on or claim to the Mortgaged Property, including, without limitation, the applicable municipal taxing authority with respect to unpaid water, sewer or real estate taxes, any ground lessor, or any or any other junior or senior lienor. Alternatively, the Lender may require the Borrower to maintain the Trust Fund Account as directed by the Lender as a restricted cash collateral account which shall constitute additional collateral for the Obligations. As another option, the Lender may require the Borrower to account for and pay the Trust Fund Account into court or to a third party escrow agent, which funds shall be released upon the Lender's demand, as provided above, or as a court of competent jurisdiction shall otherwise determine. In no event shall the exercise of any of the foregoing rights and remedies impair or affect any other rights or remedies which the Lender may have under the Loan Documents or applicable law, whether to take possession of or directly collect the rents, income and profits from the Mortgaged Property, or otherwise and the Obligations and any existing Event of default shall remain unmodified thereby.

- F. In the event any tenant under any of the Leases is the subject of any proceeding under the federal Bankruptcy Code, as amended from time to time, or any other federal, state or local statute which provides for the possible termination or rejection of any Lease assigned hereby, the Borrower covenants and agrees that if any of the Leases are so terminated or rejected, no settlement for damages shall be made without the prior written consent of the Lender, in each instance, and any check and payment for termination or rejection of any such Lease will be made payable both to the Borrower and the Lender. The Borrower hereby assigns any such payment to the Lender and further covenants and agrees that upon the request of the

Lender after an Event of default, the Borrower will duly endorse to the order of the Lender any such check, the proceeds of which will be applied to the Obligations.

- G. Without in any way limiting the rights of the Lender to elect whether to affect a tenant's interest in the Mortgaged Property by joining any such tenant as a defendant in a judicial foreclosure action (if applicable), in the event this Mortgage is foreclosed, the Lender shall have the right, in its discretion, to be exercised by written notice to the applicable tenant within thirty (30) days of the date title vests in the party who acquires title as a result of the foreclosure (the "Continuation Notice"), to elect (under the privity of contract established by the assignment of the Leases) to assume some or all of those Leases which are subordinate to this Mortgage and thereupon such Lease(s) shall remain in full force and effect and such tenant shall attorn to the owner of the Mortgaged Property notwithstanding the foreclosure of the superior lien of this Mortgage. In the event that the Lender does not timely send the Continuation Notice as provided above and no recognition or nondisturbance agreement has previously been executed by the Lender in favor of the applicable tenant(s), then the Lender shall retain its rights under applicable law to treat such subordinate leases as terminated by virtue of the foreclosure. The Lender's rights hereunder shall automatically be transferred to and may be exercised by any party acquiring title as a result of the foreclosure, as well as their successors and assigns.

15. Covenants Regarding Leases. The Borrower covenants with the Lender as follows:

(i) to observe and perform all the obligations imposed upon the lessor under every such Lease and not to do or permit to be done anything to impair the security thereof;

(ii) not to collect any of the rents, income and profits arising or accruing under the Leases or from the Mortgaged Property in advance of the time when the same shall become due, except as provided in Section 14B;

(iii) not to execute any other assignment of the lessor's interest in the Leases or assignment of rents arising or accruing from the Leases or from the Mortgaged Property, unless approved in writing by the Lender;

(iv) not to reduce the rent or the term, or otherwise alter, modify or change the terms of the Leases so as to impair their value as security for the Obligations or, except in the case of a default by the tenant thereunder, cancel or terminate the same or accept a surrender thereof, or modify or terminate any guaranties of any Lease, without the prior written consent of the Lender in each instance;

(v) not to subordinate any such Lease to any mortgage or other encumbrance or permit, consent or agree to such subordination without the Lender's prior written consent in each instance;

(vi) to pay to the Lender forthwith all advance rent or amounts in lieu thereof received by the Borrower to be held by the Lender as additional collateral or applied after an Event of default to the Loan Amount, interest thereon or any other amount due or to become due hereunder as the Lender in its discretion shall determine; and

(vii) at the Lender's request, to assign and transfer to the Lender any and all subsequent Leases upon all or any part of the Mortgaged Property and to execute and deliver at the Lender's request all such further assurances and assignments in the Mortgaged Property as the Lender shall from time to time require.

16. Lender's Right to Perform Borrower's Obligations. If the Borrower shall neglect or refuse to satisfy any term or condition of this Mortgage or of any other Loan Document, the Lender, at its election in each instance, but without any obligation whatsoever to do so, upon thirty (30) days' prior written notice to the Borrower (except in the case of an emergency, in which event no advance notice shall be required), may cause such repairs or replacements to be made, obtain such insurance, pay such taxes, assessments, charges, and sums, do such acts, incur and pay such amounts in protecting its rights hereunder and pay any balance due under any conditional agreement of sale of any property included as a part of the Mortgaged Property, all as the Lender in its discretion determines to be necessary or appropriate to satisfy any term or condition of this Mortgage which the Borrower shall have failed to



satisfy or to remedy any breach of such term or condition, and any amounts or expenses so paid or incurred, together with interest thereon from the date of payment by the Lender at the rate as provided in the Note for amounts due after maturity shall be immediately due and payable by the Borrower to the Lender and until paid shall be secured by this Mortgage equally and ratably with the other indebtedness secured hereby, and the same may be collected as part of the principal debt secured by this Mortgage in any suit hereon or upon the Note or any other Loan Document. No such payment or action by the Lender shall relieve the Borrower from any default hereunder or impair the right or remedy of the Lender with respect thereto.

17. Legal Expenses. If any action or proceeding is commenced, including an action to foreclose this Mortgage or to collect the debt hereby secured, to which action or proceeding the Lender is made a party by reason of the execution of this Mortgage or by reason of any Obligation, or by reason of entry or any other action under this Mortgage, or if it becomes necessary in connection with legal proceedings or otherwise to defend or uphold the mortgage hereby granted or the lien hereby created or any act taken under this Mortgage, all reasonable sums paid or incurred by the Lender for the expense of any such litigation shall be reimbursed or paid by the Borrower, or may at the discretion of the Lender be added to the Obligations and shall be secured hereby equally and ratably and shall bear interest until paid at the rate of interest provided in the Note for amounts due after maturity.
18. Subrogation. The Lender shall, in addition to all other rights, be subrogated to the lien, whether released of record or taken by the Lender by assignment, of any and all encumbrances on the Mortgaged Property or any part thereof to the extent satisfied or acquired with funds of the Lender, whether paid out of the proceeds of the loan secured by this Mortgage or otherwise.
19. Default. Upon the occurrence of an Event of default, at the Lender's discretion or immediately if so provided in the Loan Documents, all Obligations shall become immediately due and payable without further notice or demand and the Lender shall be authorized to exercise any right or remedy provided for herein, including, without limitation, the Statutory Power of Sale.

20. Additional Rights of the Lender Upon Borrower's Default.

A. Access for Foreclosure Purposes. In the event the Lender elects to exercise the Statutory Power of Sale hereunder, then during such time as the Borrower remains in possession of the Mortgaged Property, the Borrower agrees and covenants that the Lender shall have access to the Mortgaged Property, or any portion thereof, during normal business hours for such purposes as the Lender deems necessary or desirable for conducting or planning for the foreclosure sale, including, without limitation, inspections by surveyors, appraisers, and structural, environmental, and other types of engineers or building inspection professionals; pre-sale inspections of the Mortgaged Property by auctioneers and prospective bidders; and the conduct of the actual foreclosure auction itself on the Mortgaged Property. In connection with the exercise of any such access rights, the Lender shall not be deemed to have "taken possession" of or otherwise be responsible for the operation or control of the Mortgaged Property, such access rights being limited in scope solely to effectuate the Statutory Power of Sale.

B. Entry of Possession. The Borrower authorizes the Lender, in addition to all other rights granted by law or by this Mortgage, upon an Event of default, and without notice, to enter and take possession of all or any part of the Mortgaged Property, either in its own name or in the name of Borrower, and to use, operate, construct, reconstruct, manage, and control the same and conduct the business thereof, and perform lessor's obligations under any lease or contract of sale affecting all or any part of the Mortgaged Property, and/or collect the rents, profits, and all receipts of every nature therefrom, as the Lender in its discretion shall deem best. To the extent received by the Lender, the Lender shall apply the rents, profits and receipts from the Mortgaged Property in such order of priority as the Lender in its sole discretion may determine, to the Obligations or to the payment of any of the expenses described below.

(i) Upon such entry, the Lender may, from time to time, at the expense of the Borrower, make all such repairs, replacements, alterations,

additions, and improvements to the Mortgaged Property as the Lender may deem proper, but in no event shall the Lender be obligated to do so; and the Lender may, but shall not be obligated to, exercise all rights and powers of the Borrower, either in the name of Borrower or otherwise, as the Lender shall determine. Without limitation upon the generality of the foregoing, the Lender shall have the right to do all things necessary or desirable in order to keep in full force and effect all licenses, permits, and authorizations which benefit the Mortgaged Property.

(ii) Upon such entry, the Lender may, at its option, but without any obligation to do so, do any one or more of the following: pay and incur all expenses necessary or deemed by it appropriate for the holding and operation the Mortgaged Property or the maintenance, repair, replacement, alteration, addition, and improvement of the Mortgaged Property, including, without limitation, payments of taxes, assessments, wages of employees connected with the Mortgaged Property or any business conducted thereon, charges and reasonable compensation for services of the Lender, its attorneys and accountants, and all other persons employed or engaged in connection with the Mortgaged Property or any business conducted thereon; and, in addition, the Lender, at its option, may, but shall not be obligated to, make payments or incur liability with respect to obligations arising prior to the date it takes possession.

(iii) Upon such entry, the Lender may, at its option, but without any obligation to do so, do any of the following, either in its own name or in the name of Borrower pursuant to the power of attorney set forth below: enforce, modify, cancel or accept a surrender of any or all of the Leases; demand, collect, compromise and give receipts and releases for rents which may be or become due from any tenant under a Lease; receive, endorse and deposit for collection any checks given in payment of rent; institute, prosecute or settle any proceedings for the recovery of rents or possession; lease or rent the Mortgaged Property or any part thereof for such duration at such rentals and upon such other terms and conditions as Lender may deem advisable; and enforce or enjoin the violation of any of the terms, provisions and conditions of the Leases.

(iv) All obligations so paid or incurred by the Lender shall be reimbursed or paid for by the Borrower upon demand and prior to the repayment thereof shall be added to the debt secured hereby and shall bear interest at the rate of interest provided for in the Note with respect to amounts due after maturity, and shall be secured hereby equally and ratably. The Lender may also reimburse itself therefor from the income or receipts of the Mortgaged Property or any business conducted thereon, or from the sale of all or any portion of the Mortgaged Property. The Lender may also apply to any of the Obligations, any tax reserve account, deposit, or any sum credited or due to the Borrower from the Lender without first enforcing any other rights of the Lender against the Borrower or against any endorser or guarantor of any Obligations or against the Mortgaged Property. The Borrower hereby irrevocably constitutes and appoints the Lender, or any agent designated by the Lender, for so long as this Mortgage remains undischarged of record, as its attorney-in-fact, coupled with an interest and with full power of substitution, delegation and revocation, to execute, acknowledge, seal, and deliver in Borrower's name all instruments, agreements, deeds, certificates, and other documents of every nature and description in order to carry out and implement the exercise of the Lender's rights hereunder and under the other Loan Documents.

21. Power of Sale. This Mortgage is upon the STATUTORY CONDITION and upon the further condition that no Event of default shall occur, for any breach of which the Lender shall have the STATUTORY POWER OF SALE.

In exercising its power of sale under this Mortgage, the Lender may sell the Personal Property, or any part thereof, either separately from or together with the Real Estate or any part thereof, either as one unit or in separate units, all as the Lender may in its discretion elect; and may also sell the Mortgaged Property as one unit or parcel or in such separate units or parcels as Lender may in its discretion elect; and may so sell the Mortgaged Property or any part thereof either separately from or together with the whole or any part of other collateral which may constitute security for any Obligation, also as the Lender may in its discretion elect. Without limiting the generality of the foregoing, the Lender's statutory power of sale shall not be exhausted until all of the

Real Estate shall have been struck down at a foreclosure auction and the successful bidders have all accepted and recorded the resulting foreclosure deeds, it being expressly agreed that the Lender shall have the power to foreclose upon and sell portions of the Real Estate at different times or days if the Lender so elects and the Lender also may continue to auction the Real Estate at any foreclosure sale even if the amounts previously struck down at prior foreclosure auction sales for other portions of the Real Estate exceed the Obligations (provided the Lender duly accounts for the excess proceeds in accordance with applicable law). In the event of any separate sale of the Personal Property, the Lender will give to the Borrower reasonable notice of the time and place of any public sale or of the time after which any private sale or other intended disposition thereof is to be made, and such requirement of reasonable notice shall be met if such notice is given at least ten (10) days before the time of the sale or other disposition.

22. Waiver by Borrower. The Borrower, to the fullest extent that the Borrower may do so, hereby: (a) agrees that the Borrower will not at any time insist upon, plead, claim, or take the benefit or advantage of any law now or hereafter in force providing for any appraisalment, valuation, stay, extension, or redemption, and waives and releases all rights of redemption, valuation, appraisalment, stay of execution, notice of election to mature or declare due the Obligations; and (b) waives all rights to a marshalling of the assets of the Borrower, including without limitation the Mortgaged Property, or to a sale in inverse order of alienation in the event of a sale hereunder of the Mortgaged Property, and agrees not to assert any right under any statute or rule of law pertaining to the marshalling of assets, sale in inverse order of alienation, or other matters whatever to defeat, reduce, or affect the right of the Lender under the terms of this Mortgage or the Note or any other Loan Document to a sale of the Mortgaged Property for the collection of the indebtedness evidenced by the Note and all other Obligations without any prior or different resort for collection, or the right of the Lender to the payment of such indebtedness and other Obligations out of the proceeds of sale of the Mortgaged Property in preference to every other claimant whatever.
23. Notices. All notices, demands, and other communications made with respect to this Mortgage shall

be in writing and given as provided in the Loan Agreement.

24. Lender Not Obligated; Cumulative Rights. Nothing in this Mortgage shall be construed as obligating the Lender to take any action or incur any liability with respect to the Mortgaged Property or any business conducted thereon, and all powers given to the Lender are for its benefit and shall be exercised in the Lender's discretion, as indicated herein. All of the Lender's rights hereunder are cumulative and in addition to, and not in substitution for, the rights of the Lender under all other Loan Documents.
25. Declaration of Subordination. At the option of the Lender, which may be exercised at any time or from time to time, by written notice to the Borrower and to any applicable tenant, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or condemnation awards), to any and all leases of all or any part of the Mortgaged Property upon the execution by the Lender and recording and filing thereof at any time hereafter in the Land Records of a unilateral declaration to that effect.
26. Maximum Amount Secured. The maximum amount secured by this Mortgage shall include, but not be limited to, the total of all of the following items which may be outstanding at any time: the Loan Amount; accrued interest, charges, and fees under the Note; legal fees and costs; collection and foreclosure costs (including appraisals, environmental testing (and remediation, if necessary), brokerage commissions, receiver's fees, eviction costs, management and marketing fees and expenses, registry recording charges, deed transfer stamps and taxes, commercial advertising costs, and auctioneer fees); all taxes, utility payments, insurance premiums, maintenance costs, tenant improvements, rental incentives, or other amounts advanced by the Lender for purpose of protecting or enhancing its security; all other Obligations of the Borrower to the Lender; and all other damages, costs, and expenses to which the holder of a mortgage is entitled under applicable law.
27. Receiver. Whether or not the Borrower is then insolvent and whether or not any deficiency balance is anticipated, any rights of the Lender hereunder may be exercised by a court appointed receiver. In connection therewith, such a receiver shall be appointed upon a petition, motion, or application filed by the Lender

with any court of competent jurisdiction and, effective after the occurrence of an Event of default, the Borrower hereby irrevocably consents to and approves, without prior notice or hearing, the immediate appointment of a receiver (in connection with a foreclosure action or otherwise) and waives any right to object thereto without regard to the value of the Mortgaged Property or the adequacy of any other Collateral.

28. Specific Performance. As the subject matter of this instrument involves real estate which by its nature is unique, the Borrower agrees and acknowledges that its failure to observe the provisions hereof will cause irreparable harm to the Lender for which there is no adequate remedy at law and so the provisions hereof (including, without limitation, Sections 13 and 20) shall be specifically enforceable by the Lender in a court of equity by injunctive relief.
29. Successors and Assigns. This Mortgage shall inure to the benefit of and be binding upon the Borrower and the Lender and their respective representatives, successors, and assigns. The terms "Borrower" and "Lender" as used herein shall include all subsequent holders of their respective rights, title, and interests under this Mortgage.
30. Miscellaneous.
  - A. Time shall be of the essence of each and every provision of the Loan Agreement, the Note, this Mortgage and each of the other Loan Documents.
  - B. In case any of or more of the provisions of this Mortgage, the Note, the Loan Agreement, any of the other Loan Documents, or any other agreement now or hereafter executed in connection with any one or more of the foregoing are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof. Each of the provisions of every such agreement, document or instrument shall be enforceable by Lender to the fullest extent now or hereafter not prohibited by applicable law.
  - C. No consent or waiver, express or implied, by Lender to or of any default by Borrower shall be construed as a consent or waiver to or of any other default at the same time or upon any future occasion.

EXECUTED and delivered as a sealed Massachusetts instrument  
as of the 15th day of October, 2004.

BORROWER:

CITIZENS FOR AFFORDABLE HOUSING IN  
NEWTON DEVELOPMENT ORGANIZATION,  
INC.

By: Josephine McNeil

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

October 15, 2004

On this 15<sup>th</sup> day of October, 2004, before me, the  
undersigned Notary Public, personally appeared the above-named  
\_\_\_\_\_, the \_\_\_\_\_

\_\_\_\_\_ of Citizens for Affordable Housing  
in Newton Development Organization, Inc., provided to me by  
satisfactory evidence of identification being [ ] driver's  
license or other state or federal government document bearing a  
photographic image, [ ] my own personal knowledge of the identity  
of the signatory, to be the person whose name is signed above,  
and acknowledged the foregoing to be signed by him/her  
voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires:



EXHIBIT A  
Legal Description

A certain parcel of land with the buildings thereon situated in Newton, being Lots No. 29 and 30 on a plan of Jackson Terrace made by F. T. Westcott, C.E. dated October, 1908 and recorded with Middlesex South District Deeds Plan Book 175, Plan 6 and bounded and described as follows:

Beginning at a point on the easterly side of Wiltshire Court, as shown on said plan, at the division line between lots numbered 28 and 29, thence running southeasterly along said lot numbered 28 one hundred eight and 45/100 (108.45) feet more or less; thence turning and running northeasterly forty (40) feet; thence turning and running northwesterly along lot numbered 31 on said plan one hundred forty-two and 70/100 (142.70) feet more or less to said Wiltshire Court; thence turning and running southeasterly along said Wiltshire Court fifty-four and 86/100 (54.86) feet to the point of beginning.

For title see deed from Walter Tobin, Trustee of Tobin Nominee Trust to be recorded herewith.

The Post Office Address of the Premises is 163 Jackson Road, Newton, Massachusetts 02158.

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ASSIGNMENT OF PROJECT DOCUMENTS

THIS ASSIGNMENT OF PROJECT DOCUMENTS (this "Assignment") is made and entered into as of the 15<sup>th</sup> day of October, 2004, by CITIZENS FOR AFFORDABLE HOUSING IN NEWTON DEVELOPMENT ORGANIZATION, INC., a Massachusetts non-profit corporation, with a business address at 1075 Washington Street, Newton, Massachusetts 02465 ("Borrower"), to MHIC, LLC., a Massachusetts limited liability company, having its address at 70 Federal Street, Boston, Massachusetts 02110 ("Lender").

WHEREAS, Borrower and Lender have executed a Note of even date herewith (the "Note") pursuant to which Lender has agreed to make a loan to Borrower in the aggregate principal amount of \$525,000 ("Loan");

WHEREAS, the Note is secured by a Mortgage, Security Agreement and Fixture Filing of even date therewith (the "Mortgage") from Borrower covering the property described in the Mortgage (the "Property") as well as other security; and

WHEREAS, as additional security for the Loan, the Lender has required that the Borrower assign to Lender, its interest in and to the financing commitments hereinafter described and in and to various contracts, agreements, plans, permits and development rights; and

NOW, THEREFORE, in consideration of the recitals set forth above and incorporated in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Borrower covenants and agrees as follows:

1. Borrower grants, transfers and assigns to Lender all the right, title and interest of Borrower in, to and under the following agreements, contracts, guaranties, warranties, plans, licenses, permits and other items of personal property, whether now or hereafter executed, granted, received, acquired or issued:

(i) all agreements with an architect pursuant to which the architect has agreed to perform professional services required in connection with the renovation, rehabilitation or construction of the Property;

(ii) all agreements, relating to the rehabilitation, renovation or construction of the Property;

(iii) all contracts and subcontracts, together with any and all extensions, modifications, amendments and renewals thereof, which are entered into by

Borrower or contractor in connection with the performance of the work or the supply of labor, services or materials required for the rehabilitation, renovation or construction of the Property;

(iv) all guarantees, warranties and other undertakings, whether written, oral or statutory, covering the quality or performance of the work or the quality of the materials required by a construction contract, contracts and subcontracts, together with any claims which may be asserted thereunder;

(v) all buildings permits, governmental permits, licenses, consents, approvals and authorizations now or hereafter granted or issued, and all tradenames, trademarks and logos used, in connection with the construction, development or operation of the Property;

(vi) all plans, specifications, drawings, surveys, renderings and models prepared for the renovation, rehabilitation or construction of the Property in existence from time to time, together with all revisions and modifications thereof and all sketches and notes related thereto;

(vii) all commitments for loans, grants, governmental subsidies and tax exempt financing.

The items referred to in paragraphs (i) through (vii) above are sometimes hereinafter collectively referred to as the "Project Documents" and individually referred to as a "Project Document".

This Assignment is made for the purpose of securing: (a) the full and prompt payment when due, whether by acceleration or otherwise, with such interest as may accrue thereon, either before or after maturity thereof, of the Note; and (b) the full and prompt payment and performance of any and all obligations of Borrower to Lender under this Assignment and under the Mortgage, and any other agreements, documents or instruments now or hereafter evidencing, securing or otherwise relating to the indebtedness evidenced by the Note (the Note, the Mortgage and said other agreements, documents or instruments, together with all renewals, amendments, extensions, consolidations and modifications thereof, are collectively referred to as the "Loan Documents" and individually referred to as a "Loan Document").

2. Borrower covenants and agrees:

A. To faithfully abide by, perform and discharge each and every obligation, covenant, condition and agreement of the Project Documents to be performed by Borrower and to

enforce performance by each other party thereto of each and every obligation, covenant, condition and agreement to be performed by such other party.

B. To promptly provide Lender with copies of any and all notices received or given by Borrower which allege, either directly or indirectly, that Borrower is in default in the performance of any obligation, covenant, condition or agreement of the Project Documents to be performed by Borrower, or that any other party to the Project Documents is in default in the performance of any obligation, covenant, condition or agreement of the Project Documents to be performed by such other party.

C. That the term "Event of Default", whenever used in this Assignment, shall mean any one or more of the following conditions or events continuing beyond any applicable grace or notice periods:

(1) Failure by Borrower to pay as and when due any interest on or principal of or other sum payable under the Note; or

(2) Failure by Borrower to observe, perform or discharge any obligation, covenant, condition or agreement of this Assignment, and the continuance of such failure for a period of thirty (30) days after written notice thereof from Lender; or

(3) Any representation or warranty of Borrower in this Assignment shall prove to have been false or incorrect in any material respect upon the date when made; or

(4) The occurrence of any default under any of the Loan Documents.

D. That an Event of Default by Borrower under this Assignment shall constitute a default under the Note and a default under all of the other Loan Documents.

E. That upon the occurrence of any Event of Default, Lender may at its option, with or without notice or demand of any kind (except as may be provided in this Assignment or in any of the Loan Documents), and without waiving such Event of Default, exercise any or all of the following rights and remedies: (1) declare any part or all of the indebtedness evidenced or secured by this Assignment or by the Loan Documents to be immediately due and payable, whereupon the same shall become immediately due and payable; (2) exercise any and all rights and remedies provided for under this Assignment or under the Loan Documents as well as

such remedies as may be available at law or in equity; and (3) cure any such Event of Default in such manner and to such extent as Lender may deem necessary to protect the security of this Assignment, including specifically, without limitation, the right (but not the obligation) to appear in and defend any action or proceeding purporting to affect the security of this Assignment or the rights or powers of Lender, and also the right (but not the obligation) to perform and discharge each and every obligation, covenant, condition and agreement of Borrower under the Project Documents, and, in exercising any such powers, to pay necessary costs and expenses, employ counsel and incur and pay attorneys' fees and expenses. Lender shall not be obligated to perform or discharge, nor does it undertake to perform or discharge, any obligation, duty or liability of Borrower under any of the Project Documents, or by reason of this Assignment, it being agreed that Lender shall be treated as agreeing to perform or discharge such obligation, duty or liability if (but only if) Lender shall, by written notice sent to the other contracting party to, or grantor or licensor of, such Project Document, expressly so elect.

F. That at any time after the occurrence of any Event of Default, Lender may, at its option, without notice, and without regard to the adequacy of security for the indebtedness secured by this Assignment, either in person or by agent, with or without bringing any action or proceedings, or by a receiver to be appointed by a court at any time hereafter, exercise and enforce for its own benefit every right, power and authority under the Project Documents, or any of them, as fully as Borrower could itself.

G. That each architect, contractor and the contracting party to, or grantor or licensor of, any Project Document, upon receipt of written notice from Lender of the occurrence of any Event of Default and Lender's election to exercise its rights under this Assignment, shall be and is irrevocably directed and authorized by Borrower to recognize and accept Lender as "owner" under any architect's contract, any construction contract, or as holder of such other Project Document, as the case may be, for any and all purposes as fully as it would recognize and accept Borrower and the performance of Borrower thereunder, and to perform such Project Document for the benefit of Lender in accordance with the terms and conditions thereof, without any obligation to determine whether or not any such Event of Default has in fact occurred.

H. That further, and without limitation of the foregoing remedies, upon the occurrence of any Event of Default, Lender shall have the rights and remedies of a

secured party under the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts with respect to each and every Project Document in which a security interest may be obtained, in addition to the rights and remedies otherwise provided for by law or in equity or in any of the Loan Documents.

I. That in the exercise of the powers granted to Lender in this Assignment, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Borrower. Borrower agrees to indemnify and hold Lender free and harmless from and against any and all claims, demands, liability, expense, cost, loss or damage (including all costs, expenses and attorneys' fees incurred in the defense thereof) which may be asserted against, imposed on or incurred by Lender by reason of any act or omission of Borrower under any of the Project Documents or by reason of this Assignment or the exercise of Lender's rights and remedies under this Assignment or under any of the Project Documents or by reason of any alleged obligation or undertaking of Lender to perform or discharge any obligation, duty or liability of Borrower under any of the Project Documents; provided, however, that nothing in this Assignment shall be construed to obligate Borrower to indemnify and hold Lender free and harmless from and against any claim, demand, liability, expense, cost, loss or damage asserted against, imposed on or incurred by Lender by reason of Lender's willful misconduct or gross negligence. Should Lender incur any such liability, expense, cost, loss or damage, or in the defense of any such claims or demands, for which it is to be indemnified by Borrower as aforesaid, the amount thereof shall be secured by this Assignment, the Mortgage and other Loan Documents (whether or not such amount, when aggregated with other sums secured by the Mortgage and other Loan Documents, exceeds by principal face amount of the Note), shall bear interest at the default rate specified in the Note from the date incurred until paid, and shall be due and payable immediately upon demand by Lender.

J. That Lender shall have the right to assign to any subsequent holder of the Note or the Mortgage, or to any person acquiring title to the Property, the Project Documents and all the right, title, interest, power and authority of the Borrower in, under and by virtue of the Project Documents hereby or hereafter assigned.

3. Borrower further covenants, represents and warrants to Lender that (i) Borrower has not previously assigned, sold, pledged, transferred, mortgaged, hypothecated or otherwise encumbered the Project Documents or any of them, or its right, title and interest therein, (ii) Borrower shall not assign, sell, pledge, transfer, mortgage, hypothecate or otherwise encumber its

interests in the Project Documents or any of them (except to any subordinate lender approved by the Lender, (iii) Borrower has not performed, and will not perform, any act which might prevent Borrower from performing its undertakings under this Assignment or which might prevent Lender from operating under or enforcing any of the terms and conditions of this Assignment or which would limit Lender in such operation or enforcement, (iv) Borrower is not in default under the Project Documents, or any of them, and to the best knowledge of Borrower, no other party to the respective Project Documents is in default thereunder except as disclosed in writing to Lender, (v) no amendments to any of the Project Documents will be made without the prior written consent of Lender, and (vi) upon execution of any of the Project Documents, Borrower will deliver a copy of such Project Documents, Borrower will deliver a copy of such Project Document (or the original at Lender's request) to Lender and will require such of the parties thereto as Lender may designate to execute and deliver to Lender a consent to this Assignment.

4. All notices, demands, elections or requests provided for or permitted to be given pursuant to this Assignment shall be in writing and shall be deemed to have been sufficiently given when delivered or mailed in the manner set forth in the Note.

5 Although this Assignment constitutes a present, current and absolute assignment of the Project Documents, so long as there shall exist no Event of Default, Borrower shall have the right to exercise every right, power and authority under the Project Documents, and to perform and enforce performance of all obligations under the Project Documents. This Assignment shall terminate when the indebtedness evidenced by the Note is paid in full and all obligations, covenants, conditions and agreements of Borrower contained in this Assignment and in the Loan Documents are performed and discharged, and, in such event, upon the request of Borrower, Lender shall execute and deliver to Borrower instruments effective to evidence the termination of this Assignment.

6. This Assignment constitutes the granting by Borrower to Lender of a security interest under the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts in the right, title and interest of Borrower in, to and under each and every Project Document in which a security interest may be obtained. Borrower agrees to execute and deliver to Lender, at any time or times during which this Assignment shall be in effect, such further instruments as Lender may deem necessary to make effective this Assignment and the security interest created by this Assignment. To evidence such security interest, at the request of Lender, Borrower shall, in a form satisfactory to Lender, join with Lender in executing on or more financing statements or other notices of security interest, and any continuation thereof, and shall pay the cost for filing thereof.

7. The exercise of any rights or remedies under this Assignment shall not be deemed to cure or waive any Event of Default, or waive, modify or affect any notice of default under any of the Loan Documents, or invalidate any act done pursuant to such notice. The rights and remedies of Lender provided in this Assignment shall be in addition to and not in substitution for the rights and remedies vested in Lender in any of the Loan Documents or at law or in equity, all of which rights and remedies are specifically reserved by Lender. The remedies provided in this Assignment or otherwise available to Lender shall be cumulative and may be exercised concurrently. The failure to exercise any of the remedies provided in this Assignment shall not constitute a waiver thereof, nor shall use of any of the remedies provided in this Assignment prevent the subsequent or concurrent resort to any other remedy or remedies.

8. This Assignment shall be interpreted, construed and enforced according to laws of the Commonwealth of Massachusetts.

9. It is expressly intended, understood and agreed that this Assignment and the Loan Documents are made and entered into for the sole protection and benefit of Borrower and Lender, and their respective legal representatives, successors and assigns (but in the case of assigns of Borrower, only if and to the extent that Lender has consented in writing to Borrower's assignment of its rights or obligations to such assigns); that no other person or person shall have any right at any time to action on this Assignment or rights to the proceeds of the Loan; that such proceeds of the Loan do not constitute a trust fund for the benefit of any third party; that no third party shall under any circumstances be entitled to any equitable lien on any such undisbursed proceeds of the Loan at any time; and that Lender shall have a lien upon and right to direct application of any such undisbursed proceeds of the Loan as provided in the Loan Documents.

10. The relationship between Lender and Borrower is solely that of a lender and borrower, and nothing contained in this Assignment or in any of the Loan Documents shall in any manner be construed as making the parties to this Assignment partners, joint venturers or any other relationship other than lender and borrower.

11. Borrower and Lender intend and believe that each provision in this Assignment comports with all applicable local, state or federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Assignment is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision or public policy, and if such court should declare such portion, provision or provisions of this Assignment to be illegal, invalid,



unlawful, void or unenforceable as written, then it is the intent of both of Borrower and Lender that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Assignment shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained in this Assignment and that the rights, obligations and interests of Borrower and Lender under the remainder of this Assignment shall continue in full force and effect.

IN WITNESS WHEREOF, Borrower has executed this Assignment under seal, as of the day, month and year first above written.

WITNESS:

CITIZENS FOR AFFORDABLE HOUSING IN  
NEWTON DEVELOPMENT ORGANIZATION,  
INC.

BY Josephine McNeil