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March 20, 2014

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D. C. 20423

ENTERED
Office of Proceedings
March 20, 2014
Part of
Public Record

Re: Docket No. FD 35752, Grafton & Upton Railroad Company—
Petition for Declaratory Order

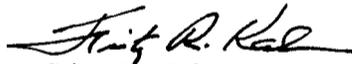
Dear Ms. Brown:

Attached for filing in the subject proceeding is the Reply of the Town of Grafton, Massachusetts, and Robert S. Berger, Zoning Enforcement Officer, to the Additional Information and Argument filed by the Grafton & Upton Railroad Company on February 28, 2014.

If you have any question concerning the pleading or if I otherwise can be of assistance, please let me know.

Copies of this letter and its attachment have been served by me upon the parties of record.

Sincerely yours,


Fritz R. Kahn

Att.

Cc: James E. Howard, Esq.
Keith T. Borman, Esq.
Mary Jude Pigsley, Esq.

SURFACE TRANSPORTATION BOARD

Docket No. FD 35752

GRAFTON & UPTON RAILROAD COMPANY—PETITION FOR
DECLARATORY ORDER

REPLY OF THE TOWN OF GRAFTON, MASSACHUSETTS, and
ROBERT S. BERGER, ZONING ENFORCEMENT OFFICER, TO
ADDITIONAL INFORMATION AND ARGUMENT IN SUPPORT OF
PETITION OF GRAFTON & UPTON RAILROAD COMPANY
FOR DECLARATORY ORDER

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Attorneys for

TOWN OF GRAFTON, MASSACHUSETTS,
and ROBERT S. BERGER, ZONING
ENFORCEMENT OFFICER

Dated: March 20, 2014

SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 35752

**REPLY OF THE TOWN OF GRAFTON, MASSACHUSETTS, and
ROBERT S. BERGER, ZONING ENFORCEMENT OFFICER,
TO ADDITIONAL INFORMATION AND ARGUMENT IN SUPPORT OF PETITION
OF GRAFTON & UPTON RAILROAD COMPANY
FOR DECLARATORY ORDER**

Respondents, the Town of Grafton, Massachusetts, and Robert S. Berger, its Zoning Enforcement Officer ("Grafton"), reply to the "Additional Information and Argument" filed February 28, 2014 by Grafton & Upton Railroad Company in Support of its Petition for a Declaratory Order.

In its Petition for Declaratory Order filed on July 24 2013, G&U made the surprising announcement that it had suddenly terminated the contractual relationships it had entered into over the preceding year with two large regional and national propane interests, Spicer Gas, Inc., and NGL, Inc. ("hereafter, "Spicer" and "NGL") to finance, construct, and operate what would have been the largest LPG facility in Massachusetts. G&U claimed that it had terminated the several contracts and G&U Owner and President, John Delli Priscoli, filed a verified statement in which he claimed that G&U could now finance, construct, and operate the LPG facility without the resources or expertise of Spicer and NGL.¹ However, other than various verified statements, G&U has to date not submitted any actual credible evidence that it has the financial resources to construct such a facility all on its own. Moreover, G&U has submitted not a single verifiable document supporting the notion that it has the knowledge and experience--or the personnel--to handle hazardous materials in compliance with the regulations of the Pipeline and Hazardous Materials Safety Administration ("PHMSA"). Rather than supplying this Board with quantifiable and verifiable information such as tax returns, balance sheets, or income statements from any company owned or controlled by G&U or its owner, G&U again submits yet another

¹ These statements were sharply contrary to Mr. Delli Priscoli's sworn testimony given just months before in Federal Court, as well as that of G&U executive, Eric Moffett. See Grafton's Reply filed August 19, 2013, at 11 *et seq.*

self-serving verified statement by Mr. Delli Priscoli, as well as the verified statement of Lawrence Chesler of Spicer Advanced Gas.² For the following reasons, prior to finding that G&U is entitled to the sweeping protection offered by federal preemption under 49 U.S.C. § 10501(b), this Board should require G&U to actually substantiate its bald assertions.

I. Claims that G&U Can Finance this Facility Lack Any Credibility Since Mr. Priscoli's Assets are Heavily Leveraged.

In its "Additional Information," G&U states that except for a \$200,000 mortgage on the real estate comprising the site of the proposed LPG facility, "G&U's balance sheet does not include any obligation that should properly be viewed as long-term, outside debt." V.S. Priscoli at ¶ 7. The Board will have to take Mr. Delli Priscoli's word for what can "properly" be viewed as "long-term" and "outside" debt, since the referenced balance sheet is not in evidence. Mr. Delli Priscoli does mention the equipment note that G&U issued to GRT, the entity created by Spicer and NGL, to take title to the four 80,000 gallon propane storage tanks, but dismisses that obligation as a debt on which default is "highly unlikely." *Id.* That characterization also relies upon the newly flush state of G&U; but since Grafton lacks access to any verifiable information, it cannot properly opine on the rosy picture painted by Mr. Delli Priscoli. What Grafton can do, however, is point to public records, which appear to tell a different story. For example, in 2011, G&U borrowed \$6,000,000 from Mr. Delli Priscoli's company, First Colony, LLC. See Exh. A, Mortgage and Security Agreement. That would seem to be one obligation that might constitute a "long-term" "outside" debt.

Mr. Delli Priscoli also references First Colony Development Corp., his "successful real estate management company," as proof of G&U's ability to finance the LPG facility on its own. Again, the Board will have to take Mr. Delli Priscoli's word for propriety of the adjective

² In its Additional Information and Argument, G&U insists that it should have no burden to provide actual financial information concerning the project, stating correctly that the Town is questioning its credibility. The credibility issue, however, is very much of G&U's own making. For ten months--from the inception of this action in Massachusetts state court and throughout the Federal trial--G&U objected strenuously to Grafton's efforts to have this matter referred to this Board, presumably based on concerns that the transloading scheme it had developed with Spicer and NGL would not survive this Board's scrutiny. Once it lost that battle and the Superior Court finally referred the matter, G&U abruptly abandoned its plans, and now claims it should not have to provide any evidence to support its dubious substitute plan. If G&U's current claims are true, it should have no problem providing basic financial documents in support thereof.

“successful,” because that claim is again not supported by any verifiable information or documents. The information that is verifiable, however, does not appear to create cause for such optimism. For example, First Colony acquired the property located at 100 Crowley Drive in Marlborough for \$100 from another company, Metro Park Corp, LLC, also owned by Mr. Delli Priscoli. See Exh. B, Quitclaim Deed. First Colony took out at least two mortgages on the property, the first in the amount of \$2,500,000, and the second for \$12,500,000. See Exh. C, Mortgage and Security Agreement; Exh. D, Mortgage and Security Agreement. In 2010, First Colony completed construction on the property of a four-story 100,000 square foot building--built on speculation; as of November of 2013, the top two floors remain unoccupied; “‘My timing couldn’t have been worse,’ Priscoli said.” Exh. E, Worcester Business Journal, November 25, 2013. In December of 2013, First Colony took out yet another mortgage on the property in the amount of \$600,000. Exh. F, Mortgage and Security Agreement. So that asset belonging to First Colony, which has an assessed value of only \$6,015,100, is leveraged to the tune of \$15,000,000. Exh. G, Assessors’ Records, 100 Crowley Drive. What other assets First Colony owns Mr. Delli Priscoli does not say, and again no profit and loss, balance sheets, or other financial statements have been supplied.

Mr. Delli Priscoli also states that G&U has access to “additional financial resources through common ownership of other companies” by Mr. Delli Priscoli. See Additional Information at 9 et seq.; V.S. Priscoli at ¶ 8. More specifically, G&U cites to Mountaintop and Foothills Corporations, which “own 2 fully tenanted commercial buildings totaling approximately 175,000 square feet with a total value of approximately \$15 million.” See Additional Information at p. 9. What G&U fails to mention, however, is that on June 20, 2013, just 8 days after the Massachusetts Superior Court referred the preemption issue to this Board, Mountaintop mortgaged one of those buildings, 41-53 Brigham Street in Marlborough, in the amount of \$4,875,000 to the Digital Federal Credit Union (“DCU”), and as collateral assigned all of the proceeds of the leases and rents in that building to the lender. See Exh. H, The Real Reporter, June 28, 2013; Exh. I, Mortgage and Security Agreement; Exh. J, Collateral Assignment of Leases and Rents. On the same day, Foothills Corp. mortgaged the other building, 19 Brigham St in Marlborough, to DCU for \$3,420,000, and again assigned as collateral all leases and rents to the lender. Exh.K, Mortgage and Security Agreement; Exh. L, Collateral Assignmnt of Leases and Rents. That building, 19 Brigham Rd., was already

mortgaged to DCU (with rents as collateral) in the amount of \$2,925,000 on March 30, 2011. Exh. M, Mortgage and Security Agreement, Exh. N, Collateral Assignment of Leases and Rents.³

Thus, 41-53 Brigham Street, for which Mountaintop paid \$1,012,000 in 1994, and has an assessed value of \$5,120,100 is now leveraged in the amount of \$4,875,000., with its all of its leases and rents pledged as collateral, Exh. P, Assessors' Records; and 19 Brigham Rd., purchased by Foothills in 1995 for \$1,260,000 with an assessed value of \$3,082,900, is now leveraged in the amount of \$6,315,000., with all of its prospective receipts serving as collateral. Exh. Q, Assessors' Records. Therefore, the only two specific assets which G&U itemizes to support its assertion that it has the liquidity to construct the LPG facility together have an assessed value of \$8,203,000 and are mortgaged in the amount of \$11,190,000. Exhs. H-Q. One would imagine that if the proceeds of any of the mortgage transactions are liquid and available for G&U's use to construct the LPG facility, some evidence of that would have been submitted.

G&U also relies on its future profits from the LPG facility to convince this Board that it has the financial ability to construct the facility, stating that it "will be able to realize the projected annual volume of 1500 to 2000 carloads of propane at the facility even without any guaranteed minimum contracts with propane suppliers or purchasers." Additional Information at p. 10. This statement flies in the face of the sworn testimony given in Federal Court that NGLs commitment to annually supply the facility with a minimum of 800 rail cars of propane were pivotal to the facility's success.⁴ Perhaps more importantly, this assertion also calls into question why NGL would walk away from a facility that will be so instantly busy and profitable. More specifically, if as G&U states, "the demand for propane in New England remains strong" and prices are high, see Additional Information at p. 10, why would NGL, one of the biggest propane

³ Additionally, according to information currently listed on two commercial websites, there are five empty units with a total of about 12,000 square feet currently available for lease at the "fully tenanted" building at 41 Brigham Street. Exh. O.

⁴ G&U made various statements and representations during prior proceedings that it needed NGL to supply the gas and necessary rail cars and other equipment. *See, e.g., Grafton v. GURR*, U.S.D.C. proceedings, Priscoli Testimony 1/16/13, Transcript at Motion Hearing, 12/21/12, Transcript at 34-35; Docket #50, GURR's Proposed Findings of Facts, ¶ 32, appended to the Town's August 19, 2013 Reply. It now replaces the commitment from NGL/Patriot to supply a minimum of 800 rail cars of propane per year with nothing but rosy optimism.

companies in the country, agree to terminate its involvement and abandon its investments of time and money in this facility?

NGL owns and operates a vertically integrated energy business with three operating segments: midstream, wholesale supply and marketing and retail propane. See Exh. R, NGL Energy Partners LP August 2013 Report. NGL has been expanding rapidly all over the country, and particularly in the Northeast.⁵ The G&U facility would be located right off of the CSX line-- a distance that could literally be measured in yards. Strikingly, a comparison of NGL's "Service Area Map" and the CSX map shows forcefully that NGL currently has no rail service over the Interstate 95 corridor, something that CSX does have. Exh. U, NGL and CSX Service Area Maps. If G&U is correct that there are serious propane transportation and distribution issues, why would NGL walk away from this transloading facility, essentially having set up G&U as its own competitor on the I-95 corridor, to which it currently appears to lack access?⁶

⁵ In 2011, NGL acquired E. Osterman Propane under an agreement in which Osterman will contribute all of its assets to NGL. Exh. S, NGL Press Release August 16, 2011. In January of 2012, NGL purchased North American Propane, Inc. ("NAP") to acquire more assets located in Massachusetts, Maine, Connecticut, New Hampshire, Rhode Island, Pennsylvania, Delaware, New Jersey and Maryland. Exh. T, NGL Press Release, February 10, 2012. This purchase expanded NGL's operations in the New England market and provided entry into the MidAtlantic market of the U.S.; "NAP serves in excess of 50,000 customers and delivers about 18 million gallons of retail propane volume, 8 million gallons of wholesale propane volume, and 10 million gallons of distillate volume annually. In addition, the assets include three propane terminals, two of which have rail and truck capability, with a combined propane storage capacity of 1.2 million gallons. Upon closing, NGL midstream will own 18 natural gas liquids terminals from coast to coast." Exh. T.

⁶ It is also striking that in its "Additional Information," G&U appends the statement of a *Spicer* executive, **but no one from NGL**. As stated in a previous filing, although the G&U has claimed that it has unilaterally terminated the "propane companies" from their central role in the financing, construction, and operation of the proposed facility, on careful inspection of the pleadings and exhibits, it is clear that G&U has not actually "terminated" the involvement of NGL Terminals, Co. Specifically, in its Petition for Declaratory Order, G&U identified NGL Terminals Co. as a principal source for funding the facility under its original scheme. However, none of the letters which G&U sent out to unilaterally "terminate" the arrangements with the "Propane Companies" (see Exhibits B through E of the G&U's Petition), was sent to NGL Terminals Co. Thus, based on the papers filed thus far, there is nothing to prevent G&U from relying upon NGL's resources to fund the construction and operation of the proposed LPG facility, and nothing to prevent the railroad to continue to be NGL's proxy, as it was under the original scheme. Given that, there remains a serious question as to whether the transloading

Finally, G&U claims that its recent increase in traffic and corresponding growth has strengthened its financial condition, “enhancing its ability” to construct the LPG facility on its own. See G&U’s Additional Information at p. 8-9. However, the “substantially increased traffic” to which G&U refers is attributable almost entirely to its Upton operation, run by DANA, and under the DANA transloading agreement, DANA bills, collects, and retains the revenue. Therefore, it is unlikely that G&U has obtained substantial profit from this, but again, without any verifiable information or documentation, it is impossible to know.

II. G&U’s “Plan” Should in No Way Assure this Board that G&U has the Requisite Knowledge and Expertise to Handle a Hazardous Material.

Who will be handling the LPG and overseeing the operations of what would be the largest LPG facility in Massachusetts? We don’t know. G&U states only that it will acquire two employees in the summer months and four in the winter and fall, and that they will be “qualified.” See Additional Information at p. 11. Again, G&U has no knowledge or experience whatsoever handling propane, nor any experience with PHMSA regulations regarding the handling and transfer of hazardous materials. Thus, it’s “plan” to hire two to four individuals “to perform all of the functions necessary to transload propane from rail cars to trucks in a safe manner” is simply remarkable. Not only does two or four people seem like a paltry staff to serve what G&U claims will be 1500 to 2000 rail cars filled with liquid propane (translating to roughly 6,000 to 8,000 tanker trucks), the plan--“from rail cars to trucks”--makes no mention at all of the four 80,000 gallon storage tanks or G&U’s staffing and transloading plans with regard to those tanks. This Board should require much more detailed information from G&U before allowing it to open the largest LPG facility in Massachusetts in a residentially zoned neighborhood in close proximity to an elementary school and other public places.

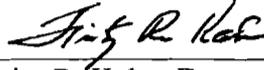
facility would be financed and controlled by G&U or by NGL; it is therefore crucial to ascertain whether NGL is still playing a role in this facility.

CONCLUSION

In light of the continued lack of any evidence that G&U has the financial ability, personnel, or expertise to construct and run the proposed propane facility, the Town requests that the Board require G&U to provide bona fide financial documentation and transloading plans in support of its claim.

The Town of Grafton and
Robert S. Berger, Zoning Enforcement Officer,

By their attorneys,



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MORTGAGE AND SECURITY AGREEMENT

Article I. Definitions and Security Interests

1.1 Definitions. The terms used below shall have the meanings there indicated.

Date: October 12, 2011

Lender: First Colony Development Co., Inc., a Massachusetts corporation duly organized and existing, having an address of 929 Boston Post Road East, Marlborough, Massachusetts 01752

Borrower: Grafton & Upton Railroad Company, a Massachusetts corporation duly organized and existing, having an address of 929 Boston Post Road East, Marlborough, Massachusetts 01752

Note: A revolving Promissory Note dated June 2, 2008 from Borrower to Lender in the original principal amount of \$6,000,000.00.

Loan Amount: \$6,000,000.00

Loan Documents: The Note, this Mortgage, and all other documents executed and delivered by Borrower in connection therewith.

Loan: The obligations evidenced by the Loan Documents.

- Obligations:
- (a) The payment of all amounts due and the performance of all provisions of the Note;
 - (b) The payment and performance of all provisions of all extensions, refinancings and amendments of the Note and all notes issued in substitution therefore;
 - (c) The payment and performance of all provisions under the other Loan Documents;
 - (d) The payment and performance of all other indebtedness, obligations and liabilities of Borrower to Lender existing on the date of this Mortgage or arising hereafter, absolute or contingent, matured or unmatured, secured or unsecured, of Borrower to Lender;
 - (e) Cross-Collateral and Future Advances. It is the express intention of the Mortgagor that this Mortgage secure payment and performance of all of the

Grafton, Upton, Hopkinton, Grafton

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Obligations, whether now existing or hereinafter incurred by reason of future advances by the Bank or otherwise, and regardless of whether such Obligations are or were contemplated by the parties at the time of the granting of this Mortgage. Notice of continuing grant of this Mortgage shall not be required to be stated on the face of any document evidencing any of the Obligations, nor shall such documents be required to otherwise specify that they are secured hereby.

Mortgaged
Property:

The Premises and the Collateral (as defined below); all Collateral shall to the extent possible be deemed real estate, and if not real estate, then fixtures and a part of the real estate, and the balance shall be personal property.

Premises:

- (a) The fee simple estate in the all of the land (the "Land") owned by the Grafton & Upton Railroad Company in Grafton, Upton, Hopedale and Milford, Massachusetts, as more particularly described in Exhibit A attached hereto, together with a fee simple interest in all buildings, structures and improvements ("Improvements") now or hereafter thereon, together with all appurtenances thereof and interests therein now or hereafter owned by Borrower, including Borrower's rights in all fixtures now or hereafter attached to, located on or used in connection with the Improvements, and all leases, occupancy agreements, and rents and profits thereof;
- (b) All materials intended for construction, reconstruction, alteration or repair of the Improvements;
- (c) All Borrower's goods, equipment, inventory and articles of personal property now or hereafter attached to, located on or used in connection with the Improvements, including without limitation, furniture, furnishings, appliances, partitions, screens, window treatments, floor coverings, hall and lobby equipment and cleaning and maintenance equipment and supplies;
- (d) All replacements of and additions to all of the property described above as the "Premises";
- (e) The proceeds of any insurance for damage to the property described above as the "Premises"; and
- (f) The proceeds of all judgments, awards of damages and settlements for, or in lieu of, the taking by eminent domain of any part of the property described above as comprising the "Premises".

Collateral:

- (a) All Borrower's accounts, accounts receivable, contract rights, documents, instruments, general intangibles, and rents and profits arising from the Mortgaged Property;
- (b) Borrower's personal property including inventory, supplies, furniture,

furnishings, equipment, and building and construction materials, used or useful in the construction, operation or maintenance of the Mortgaged Property;

- (c) Borrower's rights as lessee of all property now or hereafter located on or used in connection with the operation or maintenance of the Premises;
- (d) To the extent assignable, all contracts, agreements, licenses, permits and approvals for the construction, ownership, maintenance and operation of the Mortgaged Property;
- (e) All warranties and guarantees of construction contractors and subcontractors and of suppliers and manufacturers of equipment and material or other property incorporated into the improvements or otherwise constituting part of the Premises;
- (f) The goodwill and trade names of Borrower and any business conducted on the Mortgaged Property by Borrower, and all service marks and logotypes used in connection therewith;
- (g) All books, records, plans and specifications and operating manuals of Borrower relating to the construction, use, operation, occupancy, and maintenance of the Mortgaged Property;
- (h) The proceeds of any insurance for damage to the property described above as "Collateral"; and
- (i) The proceeds of all judgments, awards of damages, and settlements for, or in lieu of, the taking by eminent domain of all or any part of the property described above as "Collateral".

Article II. Grant of Mortgage and Security Interest

2.1 Grant of Mortgage

For good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, Borrower GRANTS to Lender, with MORTGAGE COVENANTS the Mortgaged Property as security for the Obligations. Upon payment in full of all amounts due under the Note, Mortgage and other Loan Documents, this Mortgage shall be void and of no effect and thereafter Lender shall deliver to Borrower a discharge of this Mortgage suitable for recording.

2.2 Grant of Security Interest

Borrower grants Lender a first priority security interest in the Collateral under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts. Neither this grant of a security interest nor the filing of a financing statement shall, however, be deemed to impair the intention that to the extent possible all property included in the Mortgaged Property is a part of the real estate. THIS MORTGAGE

HEREBY ALSO CONSTITUTES A FINANCING STATEMENT FILED TO PERFECT LENDER'S INTEREST IN THE COLLATERAL UNDER THE UNIFORM COMMERCIAL CODE IN EFFECT IN THE COMMONWEALTH OF MASSACHUSETTS, AS AMENDED OR RECODIFIED FROM TIME TO TIME.

Article III. Representations, Warranties, and Agreements

3.1 General

Borrower hereby represents, warrants and agrees with Lender that:

- (a) Borrower is duly authorized to make and enter into the Loan Documents and to carry out the transactions contemplated therein;
- (b) The Loan Documents have each been duly executed and delivered on behalf of Borrower;
- (c) Borrower will pay and perform all of the Obligations; and
- (d) Borrower shall, at its expense, cause this Mortgage and each amendment thereof and appropriate financing and continuation statements to be recorded and filed in order to establish and preserve the liens and security interests of Lender.

3.2 Title to Property; Other Liens

Borrower represents, warrants and agrees that:

- (a) Borrower owns good clear record and marketable fee simple absolute title to the Mortgaged Property, free of all encumbrances except those specifically described in Exhibit A. Borrower shall not permit or suffer to be created, and shall promptly discharge, any mortgage, lien, attachment, lis pendens, or other encumbrance on the Mortgaged Property or any part thereof or interest therein, other than this Mortgage and those matters enumerated in Exhibit A. Borrower shall promptly give Lender notice of, and, unless Lender requests otherwise, Borrower shall appear in and diligently contest at Borrower's expense, any action or proceeding which purports to affect Borrower's title to the Mortgaged Property, the priority or validity of the lien of this Mortgage, or any rights created or secured by the Loan Documents. Lender shall have the right to intervene or otherwise participate in any such action or proceeding, whether or not a continuing Event of Default exists;
- (b) Borrower will take all reasonable steps to prevent the recording of any materialman's or mechanic's lien relating to the Mortgaged Property or the construction of the Improvements. Borrower will take all steps necessary, including bonding, to discharge or remove the same promptly from the record after Borrower has knowledge thereof; and
- (c) Lender may allow Borrower to contest any notice, lien, attachment, lis pendens or other encumbrances relating to the Mortgaged Property, or any tax, assessment or other governmental levy, provided that Borrower contests the same diligently and in good faith and provides Lender with adequate security, in Lender's reasonable judgment, against the enforcement thereof or loss therefrom during such contest. Borrower acknowledges that certain encumbrances may present such a threat to Lender's security that Lender need not

allow Borrower to contest the same or may require Borrower to deliver to Lender cash, or its equivalent, equal in value to the encumbrance.

3.3 Restrictions on Transfers. Except as permitted by the Loan Agreement, Borrower will not without the prior written approval of Lender in each instance:

- (a) Convey, assign, or permit the conveyance or assignment of all or any part of any legal or beneficial interest in the Mortgaged Property, except that Borrower may replace items constituting part of the Collateral where such replacements are at least equal in function, quality and value; or
- (b) Collect funds for the occupancy or use of the Mortgaged Property or any part thereof from any tenant or other occupant or user in excess of two month's rent and security deposit.

3.4 Leases

Borrower will:

- (a) Not enter into any lease or any agreement of any kind permitting present or future occupancy or use of the Mortgaged Property or any part thereof if to do so would constitute or create a default under any financial covenants set forth herein without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed;
- (b) Not amend, terminate or take any action which would adversely affect Borrower's rights under, or cause or permit a termination of, any existing or future leases or agreements if to do so would constitute or create a default under any financial covenants set forth in the Loan Agreement without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed;
- (c) Punctually perform all the terms and conditions to be performed by Borrower under each lease and agreement to which the Mortgaged Property is at any time subject, which failure would entitle the tenant to withhold rent or terminate the lease;
- (d) Assign to Lender all leases and agreements and the rents and profits therefrom. Such assignments shall (i) be in form satisfactory to Lender, (ii) be legally sufficient to empower Lender to assign any such leases and agreements to any person acquiring title to all or any part of the Mortgaged Property by foreclosure proceedings or otherwise; (iii) shall provide that after foreclosure or delivery of a deed in lieu of foreclosure, no assignee of any lease or agreement so assigned shall be liable to account to Borrower for rents or profits thereafter accruing; and (iv) permit Lender after any Event of Default to collect rents and profits and to apply the same to the Loan Amount;
- (e) Promptly notify Lender of any material default of which Borrower has knowledge under any such lease or agreement;
- (f) Not permit any occupant of the Mortgaged Property to use any part thereof for the use, generation, treatment, storage, or disposal of Hazardous Materials except in compliance with all applicable laws and regulations.

3.5 Payments

Borrower will pay when due:

- (a) All principal, interest and other charges, if any, due under the Loan Documents;
- (b) Except as permitted in Section 3.2(c) of this Mortgage, all taxes, betterments, assessments and other governmental levies, water and sewer charges, insurance premiums, and other charges, to whomever assessed, whether on the Mortgaged Property or any interest therein, on the Loan Documents, or on any debt secured thereby; and
- (c) All federal, state and municipal taxes of whatever kind and nature which could, if unpaid, result in a lien on the Mortgaged Property or on any interest therein.

3.6 Operation of the Mortgaged Property

Borrower will:

- (a) Make such repairs and replacements and take such other steps as may be reasonably necessary to maintain the Mortgaged Property in at least as good condition as the same now are or hereafter may be put in while this Mortgage is outstanding, deterioration incidental to reasonable wear and tear and eminent domain takings only excepted, it being understood, however, that the foregoing exception for reasonable wear and tear shall not relieve Borrower from the obligation to repair or replace worn out, inoperative, obsolete or otherwise deficient elements of the Mortgaged Property that are reasonably required to maintain tenant occupancy of the Mortgaged Property;
- (b) Observe all federal, state and local laws, ordinances, rules and regulations relating to the Mortgaged Property or the use thereof;
- (c) Not, except as expressly approved by Lender, make or permit any material alteration to, any removal or demolition of, or any strip or waste of, the Mortgaged Property; and
- (d) Not permit the use of the Mortgaged Property for any purpose except uses permitted by law.

3.7 Taxes Account

Borrower will:

- (a) Upon request from Lender, deposit with Lender monthly, on each date on which a payment is due under the Note, or on such other date as Lender may specify, one-twelfth of such amount as Lender estimates will be required to pay all taxes, betterments, assessments and other governmental liens against the Mortgaged Property before the same become due. Lender shall not be deemed a trustee with respect to such deposits and shall not be required to keep said deposits separate from its general accounts or to pay interest thereon to Borrower unless required by law. If at any time Lender determines such Deposits are or will be insufficient to discharge the amounts actually required to pay such taxes, betterments, assessments and liens as may be due, any deficiency shall be promptly deposited by

Borrower with Lender. If escrowing taxes pursuant hereto, Borrower shall transmit to Lender all bills for such taxes, betterments, assessments and liens as soon as received. Should the amount deposited with Lender by Borrower in any year exceed the amount required, such excess shall be applied to escrow payments for the succeeding year; and

- (b) If at any time Lender does not require the escrow of tax payments, furnish Lender with the receipted real estate tax and assessments bills for the Mortgaged Property within five (5) days after payment of the same on a timely basis.
- (c) After prior written notice to Lender, Borrower may at its own expense (as between Lender and Borrower), contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount, validity or application in whole or in part of any of the taxes, provided neither the Mortgaged Property nor any part thereof will be in danger of being sold, forfeited, terminated, cancelled or lost and Borrower shall have deposited with Lender adequate reserve for payment of such taxes, unless Borrower has paid all of such taxes.

3.8 Notices

Borrower will deliver to Lender promptly upon receipt of the same, copies of all notices, certificates and documents received by Borrower which materially affect the Mortgaged Property or its use or which make a claim or assertion which if true would cause Borrower to be in default under the Loan Documents.

3.9 Security Agreement Representations

The Collateral shall be used for business purposes and shall be kept at the Premises. When requested by Lender in writing, Borrower will:

- (a) Provide Lender with an inventory of the Collateral in form reasonably satisfactory to Lender;
- (b) Execute and deliver to Lender, in form appropriate for recording and filing, a first security agreement and financing statements relating to the Collateral. In connection with the grant of security interest made hereby, Borrower hereby authorizes Lender to file or cause to be filed one or more financing statements, amendments to financing statements and/or in lieu financing statements with any filing office for the purpose of perfecting or continuing the perfection of the security interest in the Collateral.
- (c) Provide to Lender such other assurances as may be required by Lender to establish Lender's first security interest in the Collateral.

3.10 Borrower's Obligation to Report Defaults

Borrower will promptly notify Lender upon becoming aware of any event which would constitute an Event of Default hereunder, or which would constitute an Event of Default hereunder if it were to continue after any notice required.

Article IV. Insurance

4.1 Coverage

Borrower shall obtain and keep in force insurance as to the Mortgaged Property at all times during the term of the Loan as required under the Loan Agreement.

4.2 Co-Insurance Provision

The terms of all insurance policies shall be such that no co-insurance provisions apply. If, however, a policy does contain a co-insurance provision, Borrower shall insure the Mortgaged Property in an amount sufficient to prevent the application of the co-insurance provisions.

4.3 Insurers

All insurance shall be written by insurers qualified to do business in Massachusetts having a general policy rating of "A" or better and a financial class of VI or better given by A.M. Best Company, Inc. All Evidence of insurance shall be deposited with Lender. Borrower will update Lender on any insurance renewals.

4.4 Expiration of Insurance

Not fewer than fifteen (15) days prior to the expiration dates of the expiring policies, Borrower shall deliver to Lender evidence of insurance replacing the expiring policies and bearing notations evidencing the payment of premiums or accompanied by other evidence of such payment satisfactory to Lender.

4.5 Policy Provisions

All insurance shall be in form acceptable to Lender where applicable, shall provide that any proceeds shall be first payable to Lender, as its interests may appear, pursuant to a non-contributory standard mortgagee endorsement, and shall provide that twenty (20) days' written notice must be given to Lender before any such policy can be canceled, modified or renewal thereof refused. Borrower shall perform all the conditions of all insurance policies covering the Mortgaged Property and, in case of any loss or damage, Borrower will give immediate notice to Lender, who may make proof of loss or claim. Each insurance company is hereby authorized and directed to make payment for such loss directly to Lender instead of to Borrower in case of Borrower's physical damage insurance.

4.6 Application of Proceeds

The insurance proceeds for casualty shall be adjusted by and paid to Lender. Subject to the terms of the Loan Agreement, after deducting all costs and expenses, including reasonable attorneys' fees incurred by Lender in connection therewith, Lender shall release such portion of the proceeds to Borrower as is necessary to restore the Mortgaged Property to its prior condition insofar as is practicable, upon such terms and conditions as Lender deems appropriate. Lender shall apply the balance thereof, if any, to the Loan Amount. If any insurer of the Mortgaged Property denies liability, Borrower shall not be relieved of its obligation to restore the Mortgaged Property. If at any time Lender determines that the amount of proceeds is insufficient to complete restoration, Borrower shall deposit the amount of such deficiency with Lender within thirty (30) days after notice from Lender. All plans and specifications for the restoration shall be approved by Lender prior to commencement of the restoration. Except to the extent insurance proceeds are actually retained by Lender and applied to the Loan Amount, nothing herein shall

be deemed to relieve Borrower from the obligation to restore all damage and destruction to the Mortgaged Property, regardless of whether or not sufficient proceeds are available. No such retention and application shall be deemed a cure or waiver of any Event of Default under this Mortgage.

Article V. Eminent Domain

5.1 Taking

In case of any condemnation for public use of, or any damage by reason of the action of any governmental entity or authority to, all or any part of the Mortgaged Property (a "Taking"), or the commencement of any proceedings or negotiations which might result in a Taking or a settlement in lieu thereof, Borrower shall promptly give written notice thereof to Lender, describing the nature and extent of the Taking or the nature of such proceedings or negotiations. Lender may, at its option, appear in any such proceedings or negotiations, and Borrower shall promptly give Lender copies of all notices, pleadings, determinations and other papers. Borrower shall in good faith and with due diligence file and prosecute Borrower's claim for any award or payment on account of any Taking. Borrower shall not settle any such claim without Lender's prior written consent.

5.2 Application of Award

Except as permitted in the Loan Agreement, Borrower hereby assigns to Lender all of Borrower's rights in any award received in connection with a Taking or any settlement received in lieu thereof and authorizes such awards and settlements to be paid directly to Lender. If Borrower collects any such award, Borrower shall promptly pay the same to Lender. Any such award, after deducting therefrom all costs and expenses, including reasonable attorneys' fees incurred by Lender in connection therewith, shall be applied as follows:

- (a) In the case of a partial Taking, if no Event of Default exists and Lender reasonably determines that the Mortgaged Property can be economically restored and operated in accordance with the Loan Documents, Lender shall release to Borrower on terms and conditions satisfactory to Lender so much of such award, reduced as provided above, as may be necessary to restore the Mortgaged Property, and the balance, if any, shall be applied to the Loan Amount; and
- (b) In the case of a complete Taking, or in the case of a partial taking, if an Event of Default exists or if Lender reasonably determines that the Mortgaged Property cannot be economically restored and operated in accordance with the Loan Documents, Lender may, at its option, apply such award, reduced as provided above, to the reduction of balance to be paid to Borrower.

Article VI. Defaults and Remedies

6.1 Events of Default

The occurrence of any Event of Default under the Loan Agreement shall constitute an "Event of Default" under this Mortgage after the expiration of any applicable notice or cure period.

6.2 Remedies

After an Event of Default, Lender may, at its option and without notice:

- (a) Exercise any of Lender's remedies provided in any of the Loan Documents;
- (b) Declare the Loan Amount immediately due and payable;
- (c) Apply to the Loan Amount any deposits or other sums credited by or due from Lender to Borrower;
- (d) Take possession of the Mortgaged Property and operate the Mortgaged Property as a mortgagee in possession with all the same powers as could be exercised by a receiver (the availability of this remedy shall not impair the Lender's remedies under any other Loan Document such as the Collateral Assignment of Leases and Rents);
- (e) Make any payments required to be made by Borrower under the Loan Documents. The amount of all such payments shall be immediately due and payable by Borrower, and until paid, shall be added to the Loan Amount and secured by the Loan Documents with the same priority as the face amount of the Mortgage. Such payments may include, but are not limited to, payments for taxes and other governmental levies, water rates, insurance premiums, maintenance, repairs or improvements of the Mortgaged Property;
- (f) Perform any and all obligations of Borrower under the Loan Documents without waiving any rights or releasing Borrower from any obligations thereunder;
- (g) Exercise any of the rights and remedies of a secured party under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts, including but not limited to:
 - (i) Either personally or by means of a receiver, take possession of all or any of the Collateral and exclude therefrom Borrower, and all others claiming under Borrower, and thereafter store, use, operate, manage, make repairs, replacements, alterations and additions to and exercise all rights and powers of Borrower with respect to the Collateral or any part thereof;
 - (ii) Without notice to or demand upon Borrower, make such payments and do such acts as Lender may deem necessary to protect its security interest in the Collateral, including without limitation, paying, contesting or compromising any encumbrance or lien which is prior to the security interest granted hereunder, and in exercising any such powers to pay all expenses incurred in connection therewith;
 - (iii) Require Borrower to assemble the Collateral or any portion thereof, at a place designated by Lender and reasonably convenient to both parties, and promptly to deliver possession of such Collateral to Lender or an agent designated by Lender. Lender and its agents shall have the right to enter upon any of Borrower's property to exercise Lender's rights hereunder;
 - (iv) Sell, lease or otherwise dispose of the Collateral at private or public sale, with or

without having the Collateral at the place of sale, and upon such terms and in such manner as Lender may determine. Lender may be a purchaser at such sale; and

- (v) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender shall give Borrower at least five (5) days' prior written notice of the time and place of any private or public sale of the Collateral or other intended disposition thereof;
- (h) Exercise the STATUTORY POWER OF SALE and, in connection therewith, and
- (i) Take such other actions or proceedings as Lender deems necessary or advisable to protect its interest in the Mortgaged Property.

6.3 Statutory Power of Sale

This Mortgage is on the STATUTORY CONDITION and upon the further condition that all agreements of the Borrower contained in the Loan Documents be fully performed for any breach of which Lender shall have the STATUTORY POWER OF SALE. In the event of the exercise of the STATUTORY POWER OF SALE, Lender may foreclose on and sell all or any part of the Mortgaged Property, and thereafter Lender shall continue to have the STATUTORY POWER OF SALE so long as any portion of the Mortgaged Property remains subject to this Mortgage.

6.4 No Waiver or Release

No delay or omission on the part of Lender in exercising any right hereunder or under the Loan Documents shall operate as a waiver of such right or of any other right, and a waiver of any such right on any one occasion shall not be construed as a bar to or a waiver of any such right on any other occasion. No sale of any of the Mortgaged Property, no forbearance on the part of Lender, no release or partial release of any of the Mortgaged Property, and no extension, whether oral or in writing, of the time for the payment of the whole or any part of the Loan Amount or any other indulgence given by Lender to Borrower or any other person or entity, shall operate to release or in any manner affect the lien of the Mortgage or the liability of Borrower, notice of any such extensions or indulgences being hereby waived by Borrower.

6.5 Cumulative Rights and Remedies

Lender shall have the right to exercise any and all remedies under the Loan Documents until all Events of Default have been cured, and such remedies may be exercised individually, sequentially or in concert, all such remedies being cumulative, the exercise of one not being deemed a waiver of any of the others or a cure of any default.

6.6 Borrower's Waiver of Certain Rights

Borrower waives any rights it may have to receive notice of any action or proceeding to enforce Lender's rights under any Loan Document other than the notices herein provided for. In the event of foreclosure, Borrower will not claim the benefit of any law now or hereafter in force providing for any appraisal, stay, extension or redemption. Borrower waives all rights of redemption, appraisal, stay of execution, notice of acceleration and marshaling.

6.7 Effect of Exercise of Rights

Any action taken or sums paid, and any costs or expenses incurred by Lender, including attorneys' fees, pursuant to Lender's exercise of its rights, shall as between the parties be deemed valid, so that in no event shall the necessity or validity of any such action or payments, costs or expenses be disputed.

6.8 Change in Law

If any law as hereafter enacted by the Commonwealth of Massachusetts changes in any way the laws applicable to mortgages or the taxation thereof or the manner of collection of any such taxes, so as to affect adversely and materially any rights of Lender or any provisions hereof, the Loan Amount hereby secured shall, at the election of the Lender, become due and payable on demand; provided, however, that if the Borrower can lawfully pay any amount or promptly perform any obligation, and forthwith pays or performs the same, so that any such change in law does not adversely and materially affect the rights of the Lender, the Loan Amount shall not be accelerated.

Article VII. General

7.1 Lender's Expenses

To the extent permitted by law, if Lender retains an attorney to collect any sums due under this Mortgage, enforce any of the provisions hereof, or otherwise protect Lender's interests, Borrower agrees to pay Lender, on demand, all costs and expenses reasonably incurred in connection therewith, including all court costs and reasonable attorney's fees, whether or not suit is brought or prosecuted to completion, together with interest thereon at the rate applicable under the Note to amounts past due.

7.2 Indemnification

Borrower agrees to hold harmless and indemnify Lender from all liability, loss, cost, damage, and expense from any claim for damage to property or death or injury to persons which may arise in connection with the construction, use, or occupancy of the Mortgaged Property, not otherwise covered by insurance, including any liability, loss, cost, damage or expense arising from a violation of the Superfund and Hazardous Waste Laws except as such liability shall be the result of the gross negligence, bad faith or willful misconduct of Lender.

7.3 Joint and Several Liability

If more than one party executes this Mortgage the term Borrower shall mean all of them, and each of them shall be jointly and severally liable hereunder.

7.4 Captions

Captions are used for convenience of reference only and are not to be construed as part of the terms of this Mortgage.

7.5 Severability

The invalidity of any provisions of this Mortgage shall in no way affect the validity of any other provision.

7.6 Singular and Plural

Where required by the context, the singular shall include the plural and the plural shall mean the singular.

7.7 Gender

The masculine, feminine and neuter forms shall be interpreted interchangeably wherever the text requires.

7.8 Successors and Assigns

This Mortgage is binding upon and shall inure to the benefit of the parties hereto and their heirs, successors, personal representatives, and assigns.

7.9 Notices

Any notice, request, demand or other communication required or permitted hereunder shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail, postage prepaid or telegram sent to the intended addressee at the applicable address set forth on Page 1 hereof or to such different address as either Borrower or Lender shall have designated by written notice to the other sent in accordance herewith. Such notices shall be deemed given when received or, if earlier, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, four (4) days after deposit therein.

7.10 Governing Law

The provisions hereof shall be construed in accordance with the laws of the Commonwealth of Massachusetts.

7.11 Jurisdiction

Borrower submits to personal jurisdiction in the Commonwealth of Massachusetts and waives any and all personal rights to object to such jurisdiction. Borrower agrees that service of process may be made and personal jurisdiction obtained by serving Borrower at the address stated on the first page hereof.

7.12 Changes in Writing

This Mortgage may not be changed, waived, or terminated except in a writing signed by the party against whom enforcement of the change, waiver, or termination is sought.

7.13 Other Representations and Warranties

All statements contained in any loan application, certificate or other instrument delivered by Borrower to Lender or Lender's representatives in connection with the Loan secured by this Mortgage shall constitute representations and warranties made by Borrower hereunder.

EXECUTED under seal as of the date first above written.

GRAFTON & UPTON RAILROAD COMPANY

BY: JON DELLI PRISCOLI, PRESIDENT AND
TREASURER

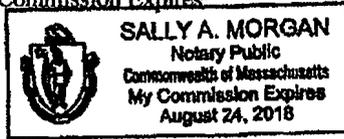
COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

October 12, 2011

Then personally appeared, before me, the undersigned notary public, personally appeared the above-named JON DELLI PRISCOLI, proved to me to be the person whose name is signed on the preceding document, through satisfactory evidence of identification, which was a valid driver's license, and acknowledged the foregoing to be his free act and deed as President and Treasurer of GRAFTON & UPTON RAILROAD COMPANY

Sally A. Morgan
Notary Public.
My Commission Expires:



Done

**EXHIBIT A
TO
MORTGAGE AND SECURITY AGREEMENT**

All of the right title and interest in the land including the buildings and improvements, fixtures, easements, appurtenances thereon owned by the Grafton and Upton Railroad Company being located in the Towns of Grafton, Upton, Hopedale and Milford, Worcester County, Massachusetts as described or referenced herein.

GRAFTON, WORCESTER COUNTY, MASSACHUSETTS

All of the right title and interest in the land including the buildings and improvements, fixtures, easements, appurtenances thereon owned by the Grafton and Upton Railroad Company located in the Town of Grafton, Worcester County, Massachusetts described and/or referenced as follows:

Deed from Frank H. Prentice, Administrator of Estate of Frank S. Prentice recorded September 30, 1909 in Book 1916, Page 74 with the Worcester District Registry of Deeds.

Deed from Charles H. Nelson recorded May 10, 1894 in Book 1440, page 496, with said Deeds.

Deed from George Harness recorded August 28, 1895 in Book 1480, page 525, with said Deeds.

Deed from Warren J. Axtell and Gladys E. Axtell recorded October 25, 1951 in Book 3374, Page 228 with said Deeds.

Deed from David L. Fisk recorded May 26, 1875 in Book 956, Page 825 with said Deeds.

Deed from David L. Fisk recorded June 1, 1894 in Book 1447, page 16 with said Deeds.

Deed from Luella Brown recorded June 20, 1895 in Book 1473, Page 590 with said Deeds.

Deed from Noah K. Merriam recorded December 10, 1874 in Book 941, page 505 with said Deeds.

Deed from John D. Fleming recorded December 10, 1874 in Book 941, Page 503 with said Deeds.

Deed from John D. Flemming recorded June 8, 1893 in Book 1418, Page 5 with said Deeds.

Deed from Patrick Flemming recorded October 10, 1874 in Book 941, Page 504 with said Deeds.

Deed from Charles Esten recorded October 10, 1874 in Book 941, page 499 with said Deeds.

Deed from Barbara Esten et als recorded October 10, 1874 in Book 941, Page 500 with said Deeds.

Deed from Chares D. Esten recorded October 10, 1888 in Book 1273, Page 602 with said Deeds.

Deed from George L. Ford and Dorothy G. Ford recorded September 18, 1951 in Book 3365, page 177 with said Deeds.

Deed from Lewis H. Bigelow recorded December 10, 1874 in Book 941, Page 497 with said Deeds.

Deed from Lewis H. Bigelow recorded August 10, 1888 in Book 1273, Page 598 with said Deeds.

Deed from Harriet A. Copp recorded December 10, 1874 in Book 941, Page 498 with said Deeds.

Deed from Harriet A. Copp recorded May 10, 1894 in Book 1440, Page 495 with said Deeds.

Deed from Harriet A. Copp recorded July 29, 1897 in Book 1549, Page 178 with said Deeds.

Deed from George Bauermeister recorded December 10, 1874 in Book 941, Page 496 with said Deeds.

Deed from William F. Parker recorded December 10, 1874 in Book 941, page 490 with said Deeds.

Deed from Lucy A. Monroe and Henry C. Monroe recorded July 29, 1897 in Book 1549, page 177 with said Deeds.

Deed from Johanna Lynes recorded July 7, 1893 in Book 1417, page 414 with said Deeds.

Deed from Joseph Bertrand and Abner M. Snow recorded May 29, 1893 in Book 1410, page 486 with said Deeds.

Deed from Jasper W. Bertrand, et al recorded December 10, 1874 in Book 941, Page 505 with said Deeds.

Deed from P. Simon A. Knowles recorded June 13, 1894 in Book 1443, Page 454 with said Deeds.

Deed from Elijah B. Brooks recorded March 13, 1876 in Book 975, Page 417 with said Deeds.

Deed from Peter Snow recorded February 17, 1875 in Book 951, Page 140 with said Deeds.

Deed from Clare M. Woodcock recorded December 7, 1905 in Book 1819, Page 301 with said Deeds.

Deed from Francis Carroll, et al recorded December 10, 1874 in Book 941, Page 498 with said Deeds.

Deed from Joseph Kimball recorded February 17, 1875 in Book 951, Page 139 with said Deeds.

Deed from Silas Vinton recorded December 16, 1874 in Book 941, page 578 with said Deeds.

Deed from Samuel Harrington recorded April 3, 1874 in Book 924, Page 241 with said Deeds.

Deed from Lewis W. Dodge recorded March 13, 1876 in Book 975, Page 417 with said Deeds.

Deed from Martha Haven Dodge recorded July 29, 1897 in book 1549, page 181 with said Deeds.

Deed from Maria Swallow and Freeman M. Swallow recorded August 10, 1888 in Book 1273, page 611 with said Deeds.

Deed from William E. Robbins recorded August 10, 1888 in book 1273, Page 610 with said Deeds.

Deed from Thomas Johnson recorded July 29, 1897 in Book 1549, page 184 with said Deeds.

Deed from Michael Maroney et als recorded August 10, 1888 in Book 1273, page 603 with said Deeds.

Deed from Debra P. Kuchinski recorded April 9, 2010 in Book 45657, Page 81 with said Deeds.

Meaning and intending to mortgage and describe all of the property owned by the Grafton & Upton Railroad Company located in the Town of Grafton, Worcester County, Massachusetts whether specifically described herein or not, including all deeded property and any and all easements, licenses, takings, rights, etc. running with and/or appurtenant to the aforementioned deeds and utilized by the Grafton & Upton Railroad, even if such deeds and rights are not specifically described and/or mentioned herein.

UPTON, WORCESTER COUNTY, MASSACHUSETTS

All of the right title and interest in the land including the buildings and improvements, fixtures, easements, appurtenances thereon owned by the Grafton and Upton Railroad Company located in the Town of Upton, Worcester County, Massachusetts described and/or referenced as follows:

Deed from Benjamin A. Jourdan & Ann M. Jourdan recorded July 29, 1897 in Book 1549, Page 184 with said Deeds.

Deed from Benjamin A. Jourdan & Ann M. Jourdan recorded August 10, 1888 in Book 1273, Page 605 with said Deeds.

Deed from Alfred T. Wood et als recorded August 10, 1888 in Book 1273, Page 615 with said Deeds.

Deed from Thomas T. Brewer recorded January 7, 1912 in Book 1924, Page 33 with said Deeds.

Deed from Alfred L. Whitney recorded July 7, 1897 recorded in Book 1540, Page 507 with said Deeds.

Deed from Alex Barton recorded February 15, 1910 in Book 1926, Page 98 with said Deeds.

Deed from Nathan Bradford recorded January 5, 1916 in Book 2094, Page 376 with said Deeds.

Deed from Adeline S. Woods recorded January 7, 1910 in Book 1924, Page 41 with said Deeds.

Deed from Emery W. King recorded January 7, 1910 in Book 1924, Page 37 with said Deeds.

Deed from Nahum B. Hall recorded January 7, 1910 in Book 1924, Page 35 with said Deeds.

Deed from Walter Curley recorded January 4, 1916 in Book 2094, Page 334 with said Deeds.

Deed from George D. Whitney recorded January 4, 1916 in Book 2094, Page 335 with said Deeds.

Deed from Elisha C. Wood recorded January 7, 2012 in Book 1924, Page 40 with said Deeds.

Deed from Emily Harris and Sarah A. Saunders recorded January 7, 2012 in Book 1924, Page 36 with said Deeds.

Deed from Charles Leland recorded January 4, 1916 in Book 2094, Page 332 with said Deeds.

Deed from Elijah B. Stoddard recorded January 4, 1916 in Book 1924, page 38 with said Deeds.

Deed from Patrick Shaughnessy recorded January 7, 1912 in Book 1924, page 39 with said Deeds.

Deed from William P. Wood and John G. Thurston recorded January 4, 2016 in Book 2094, Page 334 with said Deeds.

Meaning and intending to mortgage and describe all of the property owned by the Grafton & Upton Railroad Company located in the Town of Upton, Worcester County, Massachusetts whether specifically described herein or not, including all deeded property and any and all easements, licenses, takings, rights, etc. running with and/or appurtenant to the aforementioned deeds and utilized by the Grafton & Upton Railroad, even if such deeds and rights are not specifically described and/or mentioned herein.

HOPEDALE, WORCESTER COUNTY, MASSACHUSETTS

All of the right title and interest in the land including the buildings and improvements, fixtures, easements, appurtenances thereon owned by the Grafton and Upton Railroad Company located in the Town of Hopedale, Worcester County, Massachusetts described and/or referenced as follows:

Deed from Eben D. Bancroft recorded December 10, 1901 in Book 1704, Page 139 with said Deeds.

Deed from Henry L. Patrick recorded February 10, 1916 in Book 2096, Page 413, with said Deeds.

Deed from Cordelia Thurston and Eliza W. Wood recorded January 4, 1916 in Book 2094, Page 333 with said Deeds.

Deed from Sylvester L. Madden recorded January 7, 1910 in Book 1924, Page 22 with said Deeds.

Deed from David Ahern recorded January 7, 1910 in Book 1923, Page 165 with said Deeds.

Deed from Michael Broughy and Mary Ann Broughy recorded January 7, 1910 in Book 1924, Page 10 with said Deeds.

Deed from Joseph B. Bancroft recorded December 14, 1903 in Book 1769, page 135 with said Deeds.

Deed from Patrick Moore recorded January 7, 1910 in Book 1924, Page 25 with said Deeds.

Deed from Lucy E. Walker recorded January 12, 1910 in Book 1924, page 28 with said Deeds.

Deed from Henry Walker recorded January 7, 1910 in Book 1924, Page 27 with said Deeds.

Deed from Charles A. Wilbur recorded January 7, 1910 in Book 1924, Page 11 with said Deeds.

Deed from Andrew J. Sumner et als recorded January 7, 1910 in Book 1923, Page 167 with said Deeds.

Deed from Thomas Moore recorded January 7, 1910 in Book 1924, Page 24 with said Deeds.

Deed from Newell N. Nelson recorded January 7, 1910 in Book 1924, page 23 with said Deeds.

Deed from Elvira Chapdelaine and Joseph Chapdelaine recorded January 7, 1910 in Book 1924, page 21 with said Deeds.

Deed from Thomas O'Brien recorded January 7, 1910 in Book 1924, Page 26 with said Deeds.

Deed from George A. Draper recorded January 10, 1916 in Book 2096, Page 414 with said Deeds.

Deed from Draper Company recorded February 25, 1904 in Book 1774, page 362 with said Deeds.

Deed from Draper Company recorded March 4, 1915 in Book 2073, page 305 with said Deeds.

Deed from Mary Moore recorded April 21, 1914 in Book 2051 Page 319 with said Deeds.

Deed from Draper Company recorded October 6, 1916 in Book 2115, Page 192 with said Deeds.

Deed from Henry L. Patrick recorded February 10, 1916 in Book 2096, Page 414 with said Deeds.

Meaning and intending to mortgage and describe all of the property owned by the Grafton & Upton Railroad Company located in the Town of Hopedale, Worcester County, Massachusetts whether specifically described herein or not, including all deeded property and any and all easements, licenses, takings, rights, etc. running with and/or appurtenant to the aforementioned deeds and utilized by the Grafton & Upton Railroad, even if such deeds and rights are not specifically described and/or mentioned herein.

MILFORD, WORCESTER COUNTY, MASSACHUSETTS

All of the right title and interest in the land including the buildings and improvements, fixtures, easements, appurtenances thereon owned by the Grafton and Upton Railroad Company located in the Town of Milford, Worcester County, Massachusetts described and/or referenced as follows:

Deed from James and Ellen Breen recorded July 29, 1897 in Book 1549, Page 183 with said Deeds.

Deed from Sarah Allen recorded July 7, 1910 in Book 1923, Page 165 with said Deeds.

Deed from Michael Doyle recorded January 7, 1910 in Book 1924, Page 20 with said Deeds.

Deed from Michael Doyle recorded November 17, 1899 in Book 1680, Page 328 with said Deeds.

Deed from Timothy Hannigan recorded January 7, 1910 in Book 1923, page 164 with said Deeds.

Deed from Timothy Hannigan recorded September 19, 1899 in Book 1628, page 112 with said Deeds.

Deed from Gladys M. Bozzini recorded July 25, 1949 in Book 3199, page 92 with said Deeds.

Deed from Benjamin Ward recorded July 7, 1910 in Book 1924, Page 18 with said Deeds.

Deed from Peter Chapdelaine recorded July 7, 1910 in Book 1923, Page 166 with said Deeds.

Deed from Elizabeth L. Mann recorded July 7, 1910 in Book 1923, Page 140 with said Deeds.

Deed from William J. Mann recorded July 7, 1910 in Book 1923, page 164 with said Deeds.

Deed from Amariah Taft recorded July 7, 1910 in Book 1924, Page 19, with said Deeds.

Deed from Hannah Nathenson recorded July 7, 1910 in Book 1923, Page 163 with said Deeds.

Deed from Edward Usher and Adela Usher recorded July 19, 1890 in Book 1331, Page 96 with said Deeds.

Meaning and intending to mortgage and describe all of the property owned by the Grafton & Upton Railroad Company located in the Town of Milford, Worcester County, Massachusetts whether specifically described herein or not, including all deeded property and any and all easements, licenses, takings, rights, etc. running with and/or appurtenant to the aforementioned

deeds and utilized by the Grafton & Upton Railroad, even if such deeds and rights are not specifically described and/or mentioned herein.



3-H

QUITCLAIM DEED

METRO PARK CORPORATION, a Massachusetts Corporation with a usual place of business at 929 Boston Post Road East, Marlborough, Middlesex County, Massachusetts 01752,

For consideration paid of under One Hundred (\$100.00) Dollars hereby grants to

FIRST COLONY/CHESTNUT RIDGE, LLC, a Massachusetts Limited Liability Company with a usual place of business at 929 Boston Post Road East, Marlborough, MA 01752

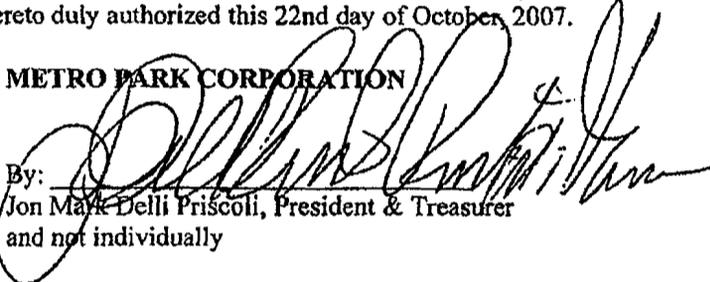
WITH QUITCLAIM COVENANTS

That certain parcel of land located on Crowley Drive in Marlborough, Middlesex County, MA being shown and described on Exhibit A attached hereto and incorporated herein.

This conveyance does not constitute conveyance of all or substantially all of the assets of the Grantor in the Commonwealth of Massachusetts and is a conveyance in the ordinary course of business.

IN WITNESS WHEREOF, Metro Park Corporation has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by Jon Delli Priscoli, its President and Treasurer, hereto duly authorized this 22nd day of October, 2007.

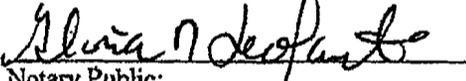
METRO PARK CORPORATION

By: 
Jon Mark Delli Priscoli, President & Treasurer
and not individually

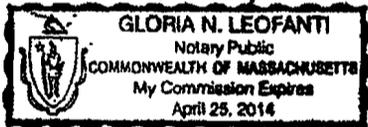
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 22nd day of October, 2007, before me, the undersigned Notary Public personally appeared the above-named Jon Mark Delli Priscoli, as President & Treasurer of Metro Park Corporation., proved to me through satisfactory evidence of identification which Massachusetts Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Notary Public:
My commission expires



1
First Colony Development Co., Inc.
929 Boston Post Road East
Marlborough, MA 01752

100 CROWLEY DRIVE MARLBOROUGH, MA



EXHIBIT A

That certain parcel of land located on Fitchburg Street and Crowley drive in Marlborough, Middlesex County, MA being shown as Lot #1B on that certain plan entitled: "Plan Of Land Crowley Drive Marlborough, MA" Date: February 15, 2006, revised September 27, 2006, October 16, 2006 & October 18, 2006, Scale: 1" = 80' Prepared By: Bruce Saluk & Associates, Inc. recorded on January 11, 2007 as Plan Number 40 of 2007 and to which plan reference may be made for a more complete and accurate description of the premises being conveyed and described herein (hereinafter referred to as the "ANR Plan"):

Lot # 1B contains 383,306 square feet of land or 8.80 acres, more or less according to the ANR Plan

Lot # 1B is conveyed together with the benefit of the Grant of Easement from William F. Madden to Metro Park Corporation, dated December 13, 2002 and recorded on December 18, 2002 in Book 37414, page 332 with the Middlesex South District Registry of Deeds.

Lot # 1B is conveyed together with the benefit of the Grant of Easement from The Commonwealth of Massachusetts to Richard J. Gaucher, dated February 21, 1979 and filed as Document Number 608510 with the Middlesex South District Registry District of the Land Court and being conveyed to Metro Park Corporation by deed from Broni M. Staniunas, Jr. dated January 26, 1998 and filed as Document Number 1054732 with the Middlesex South Registry District of the Land Court.

Lot # 1B is conveyed subject to and with the benefit of the terms and conditions of the Further Amended Crowley Drive Access And Maintenance Agreement between the City of Marlborough and Metro Park Corporation recorded as a part of the Further Amended City Council Order To Lay Out Crowley Drive As A Private Way, recorded on January 11, 2007 in Book 48821, Page 21 with the Middlesex South District Registry of Deeds.

Lot #1B is conveyed together with the benefit of the terms and conditions of the Utility Easement from The Assabet Valley Regional Vocational School District to Metro Park Corporation, dated September 25, 2006 and recorded January 11, 2007 in Book 48821, Page 37 with the Middlesex South District Registry of Deeds.

Lot # 1B is conveyed subject to and with the benefit of the terms and conditions of the Crowley Drive Lot Owners' Maintenance Agreement by & between Metro Park Corporation and Toll MA Limited Partnership, dated January 22, 2007 and recorded in Book 48877, Page 39, with the Middlesex South District Registry of Deeds.

Lot # 1B is conveyed subject to and with the benefit of the rights and easements as set forth in the Declaration of Easements, Restrictions And Covenants dated January 22, 2007 and recorded in Book 48877, Page 27 with the Middlesex South District Registry of Deeds.



D11

No. of Pages:
Haranas, Mayer, Jachowicz & Galvani
439 Worcester Road
P. O. Box 966
Framingham, Massachusetts 01701

MORTGAGE AND SECURITY AGREEMENT

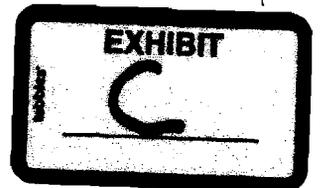
KNOW ALL MEN BY THESE PRESENTS

That FIRST COLONY/CHESTNUT RIDGE,LLC, a Massachusetts Limited Liability Company with a principal place of business at 929 Boston Post Road East, Marlborough, Middlesex County, Massachusetts, hereinafter referred to as the "Mortgagor", FOR CONSIDERATION PAID, HEREBY GRANTS to FRAMINGHAM CO-OPERATIVE BANK, a banking corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, with a place of business at 828 Concord Street, Framingham, Massachusetts 01701, hereinafter referred to as the "Mortgagee", with MORTGAGE COVENANTS, to secure the payment of TWO MILLION FIVE HUNDRED THOUSAND (\$2,500,000.00) DOLLARS as provided in Mortgagor's Note of even date, or any modifications, renewals or extensions thereof, and to secure payment of or performance of all other debts, covenants and agreements of or by Mortgagor to or for the benefit of the Mortgagee now existing or hereafter accruing while this mortgage is still undischarged of record, herewith, the land located at 100 Crowley Drive, Marlborough, Middlesex County, Massachusetts, as more particularly described in Exhibit "A" annexed hereto, which is incorporated herein by this reference, together with any and all improvements now or hereinafter situated thereon.

100 Crowley Drive, Marlborough

Also, the Mortgagor hereby grants to the Mortgagee a security interest under the Uniform Commercial Code (Mass. Gen. Laws Ch. 106) in all of the following now or hereinafter placed on the above described premises or used in connection therewith, and the proceeds therefrom, and agrees to execute on demand of the Mortgagee all instruments necessary to perfect or continue such security interest, and in the event of default hereunder the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to execute, deliver and record and/or file such instruments:

- (a) all machinery, equipment (as defined in the Uniform Commercial Code), furniture, inventory, building supplies, and appliances;
- (b) all furnaces, ranges, heaters, plumbing goods, gas and electric fixtures, screens, screen doors, mantels, shades, storm doors and windows, awnings, oil burners and tanks or other equipment, gas or electric refrigerators and refrigerating systems, ventilating and air conditioning apparatus and equipment, doorbell and alarm system, sprinkler and fire extinguishing systems, portable or section buildings, and all other fixtures of whatever kind or nature owned by the Mortgagor, now or



in the future contained in or on the above-described premises, and any and all similar fixtures hereinafter installed therein in any manner which renders such articles usable in connection therewith;

- (c) all leases, tenancies, and occupancies, whether written or not, together with all income and profit arising therefrom or from any of the foregoing Subparagraphs (a) and (b), and all payments due or to become due thereunder, including without limitation, all additional rent, damages, insurance payments, taxes, proceeds, condemnation awards, or any payments (including a purchase price) with respect to options contained therein;
- (d) all contracts and agreements (together with the leases, contracts and agreements referred to in Subparagraph (c) above); licenses, permits and approvals; and warranties and representations relative to the use, operation, management, construction, repair or service of any items referred to in any of the foregoing Subparagraphs;
- (e) any other property of the Mortgagor located on the mortgaged premises in which the Mortgagee may in the future be granted an interest;
- (f) all funds held by the Mortgagee as tax insurance escrow accounts;
- (g) all proceeds received from the sale, exchange, collection or other disposition of any of the foregoing Subparagraphs, all insurance proceeds relating to all or any portion of the foregoing Subparagraphs; and all awards, damages, proceeds, or refunds from any state, local, federal or other takings of, and all municipal tax abatements relating to, all or any portion of the foregoing Subparagraphs; and
- (h) all rights, remedies, representations, warranties, and privileges pertaining to any of the foregoing Subparagraphs.

Said land, improvements, equipment, appliances, furnishings, fixtures, and other tangible property described above and hereinafter referred to as the "premises".

This Mortgage and Security Agreement is intended to take effect as a Mortgage pursuant to Massachusetts General Laws, Chapter 106, Section 9-133.

The Mortgagor hereby covenants and agrees to perform the following as conditions of this mortgage:

- (1) to perform all of the covenants and agreements contained in said note;
- (2) to pay when due all taxes, charges for water, sewer and other municipal

services, and assessments, whether or not assessed against the Mortgagor, if applicable or related in any way to the premises, or any interest of the Mortgagor, the Mortgagee, or any other person or organization therein, or the debt, obligations or performance secured hereby, or the disbursement or application of the proceeds therefrom, excluding, however, any income or corporation excise tax of the Mortgagee; on the demand of the Mortgagee to pay to the Mortgagee on each day that payments are required by the terms of the note, in addition to the payments of principal and/or interest provided in said note, a sum equal to such fraction of the real estate taxes, charges, and betterment assessments for each year as shall be estimated by the Mortgagee to provide in the aggregate, a sum equal to said taxes, charges and assessments as and when they become due and payable, and in addition, to pay to the Mortgagee any balance necessary to account in full for the amount of said taxes, charges and assessments prior to the date when they become due and payable; it being understood and agreed that such sums shall not bear interest, that the Mortgagee shall not be required to account for any profits resulting from its use thereof, and that said sums are held by the Mortgagee for payment on account of such taxes, charges and assessments and/or any other obligations of the Mortgagor hereunder; to forward to the Mortgagee receipted real estate tax bills as soon as the same have been paid by the Mortgagor or, in case tax payments are required to be made to the Mortgagee, to forward to the Mortgagee real estate tax bills as soon as the same have been received by the Mortgagor;

- (3) to keep the premises insured against fire and all such other casualties and contingencies as the Mortgagee may from time to time require; to deposit at the demand of the Mortgagee all insurance policies or memoranda thereof with the Mortgagee forthwith after the binding of such insurance, and to deliver to the Mortgagee new policies or memoranda thereof for any insurance about to expire at least seven (7) days before such expiration, all such insurance to be first payable in case of loss to the Mortgagee on such terms, in such form and for such periods and amounts as the Mortgagee shall from time to time designate or approve, and the Mortgagor hereby grants the Mortgagee in the event of a default hereunder full power and authority as attorney irrevocable of the Mortgagor to cancel or transfer such insurance and to retain any premium or proceeds and to apply the same to the debt under the note;
- (4) if new construction or rehabilitation, to comply with all of the terms and conditions of the Construction Loan Agreement of even date and delivery herewith, and to put, maintain and keep the premises at all times in as good repair and condition as at present or as the same shall be made if new construction, damage from casualty expressly not excepted, permitting

and suffering no waste or strip of the same to occur, nor any violation of any law, by-law, ordinance, restriction, regulation, order or code affecting the premises or the use thereof; and not to remove or alter any of the improvements, equipment, appliances, furnishings, and fixtures constituting part of the premises without the consent of the Mortgagee;

- (5) to occupy the entire premises, or cause the same to be occupied by lessees (which term shall include licensees and concessionaires) and to assign and deliver to the Mortgagee on demand any or all leases of the premises or any part thereof, or at the Mortgagee's election, to assign and deliver any and all rents and other income reserved in such leases, said assignments to be in form and substance satisfactory to the Mortgagee, and the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to make, execute, acknowledge, deliver and record such assignments, and not in limitation of the foregoing, to provide that after any default by the Mortgagor hereunder or under the terms of such assignments, the Mortgagee shall be entitled to modify and otherwise deal with all such leases with the same power and discretion which the Mortgagee would have if it were the lessor thereof, and the Mortgagee shall be entitled to collect all of the rents and other income reserved in such leases and to apply the same to the debt under the note, and after foreclosure the Mortgagee shall not be liable to account to the Mortgagor for rents or other income thereafter accruing, provided, however, that any such assignments shall also provide that the Mortgagor may have and retain such rents and other income until such default occurs; and the Mortgagee shall further have the right to subordinate this Mortgage and its rights hereunder to any lease or leases of the premises now or hereafter in force, and upon execution and recording of any instruments by the Mortgagee which purports to affect such subordination, this Mortgage shall subordinate to the lease or leases referred to in such instruments with the same force and effect as if such lease or leases had been executed and delivered prior to the execution, delivery and recording of this mortgage;
- (6) to observe and perform all the obligations imposed upon the Mortgagor under any leases of the premises and not to do or permit to be done anything which would impair the security of such leases to the Mortgagee, nor to cancel or change any terms, conditions or covenants of any leases of the premises or any part thereof without the prior written consent of the Mortgagee, nor to execute any leases providing for payment of rent for more than one month in advance, nor to receive rent from all or any part of the premises for more than one month in advance without the prior written consent of the Mortgagee, and any such advance rent in excess of one month received shall be held by the Mortgagor in trust for the benefit of the Mortgagee;

- (7) to furnish the Mortgagee, from time to time, within a reasonable time after its demand, a true and complete statement of the annual operating expenses and income of the premises, any financial statements of the principal owners and any guarantors, or endorsers, such statements to be in form satisfactory to Mortgagee;
- (8) that if the premises or any part thereof shall be damaged or destroyed by fire or other hazard against which insurance is held, or if the premises or any other portion thereof shall be taken by eminent domain, no settlement on account of any loss or damage shall be made without the consent of the Mortgagee, and any proceeds from insurance or damages for such taking, as the case may be, shall be paid to the Mortgagee, and the Mortgagor hereby irrevocably assigns the same to the Mortgagee; the Mortgagee at its direction may either apply such proceeds against the debt under the note (in which case the Mortgagor's obligations hereunder to restore such damage to the premises as may have been caused by such fire, other hazard or taking, shall terminate), or release such portion of the proceeds to the Mortgagor as is necessary to restore the premises to their prior condition insofar as is practicable, upon such terms and conditions as the Mortgagee deems appropriate, and apply the balance thereof, if any, to the debt under the note; provided, however, that if any insurer of the premises denies liability, the Mortgagor shall not be relieved of its obligation to restore the premises;
- (9) if the Mortgagor shall default in the performance or observance of any covenant or agreement herein or in said note or Guaranty contained, or in payment or performance of any other obligation secured hereby, the Mortgagee may apply toward the debt under the note any deposit, payment or any sum due from the Mortgagee to the Mortgagor without first enforcing any other rights of the Mortgagee against the Mortgagor, or against any other endorser or guarantor under the note or against the premises;
- (10) if the Mortgagee shall become involved in any action or course of conduct with respect to the premises, or other security for the obligations secured hereby, in order to protect its interest therein, including without limitation: the Mortgagee's commencement and prosecution of foreclosure proceedings; its involvement in bankruptcy proceedings concerning the Mortgagor or its Guarantors; the Mortgagee's entering the premises, care and management thereof; or its defending or participation as a party in any action at law or in equity brought by the Mortgagor or any other person or organization with respect to the premises (or other security for the obligations secured hereby), the Mortgagor shall reimburse the Mortgagee for all charges, costs and expenses incurred by the Mortgagee in connection therewith, including without limitation attorney's fees.

- (11) that at any foreclosure sale of the premises, the premises and any combination or all of the other security for the obligations secured hereby may be offered for sale for one total price, and the proceeds of such sale may be accounted for in one account without distinction between the items of security or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling; and the Mortgagee may, in the exercise of the power of sale herein given, sell the premises and said other security in parts or parcels, said sales may be held from time to time, and the power shall not be fully executed until all of the premises and said other security not previously sold shall have been sold; if surplus proceeds are realized from a foreclosure sale, the Mortgagee shall not be liable for any interest thereon pending distribution of such proceeds by the Mortgagee;
- (12) to notify the Mortgagee promptly of the existence of and the exact details of any other security interest in the premises, now existing or hereafter arising, to make all payments that become due under the note having such security interests, and at the request of the Mortgagee all its right, title and interest in and to any and all agreements evidencing such security interest covering any of said security, and the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to make, execute, acknowledge and deliver such assignments; that no security interest presently exists in any of said security except as has heretofore been disclosed in writing to the Mortgagee;
- (13) that the Mortgagee shall be entitled, but not obligated, to cure any default of the Mortgagor hereunder, and shall be reimbursed by the Mortgagor for all costs and charges and expenses, including without limitation attorneys' fees, incurred in connection therewith, and that all sums for which the Mortgagee may be entitled to reimbursement shall be added to the principal sum of the debt under the note, shall earn interest at the rate set forth in said note, shall be secured by this mortgage, and shall be payable on demand of the Mortgagee, whether or not the remaining principal balance of said note has been declared due and payable;
- (14) in the event the legal or beneficial ownership of said premises, or any portion thereof or interest therein becomes vested in anyone other than the Mortgagor (including without limitation, an assignment of a partnership interest, if the Mortgagor is a partnership, and a transfer of shares, if the Mortgagor is a corporation, or upon the death of, or appointment of a guardian or conservator for, the Mortgagor or any Guarantors or endorsers (other than an endorser without recourse) of the note the entire mortgage debt shall, at the option of the Mortgagee, become due and payable on demand, provided, however, that the Mortgagee may, without notice to the Mortgagor, deal with the Mortgagor's successor or successors in interest with reference to the mortgage and the debt under the note in the same manner as with the Mortgagor without in any way

vitiating or discharging the Mortgagor's liability or obligations with respect to this mortgage or the debt under the note. No sale of the premises hereby mortgaged and no forbearance on the part of the Mortgagee or extension of the time for the payment of the debt under the note or any other indulgence given by the Mortgagee shall operate to release, discharge, modify, change or affect the liability of the Mortgagor, nor the priority of this mortgage either in whole or part, notice of such forbearance, extension or other indulgence being hereby expressly waived;

- (15) that the Mortgagor shall not:
- (a) create or permit to be created any encumbrance to attach to the premises (except for the payment of real estate taxes and betterment assessments prior to the commencement of interest and penalties thereon), and if such encumbrance is attached upon the premises without the consent of the Mortgagor, to discharge the same within sixty (60) days of the date of such attachment;
 - (b) if the Mortgagor is a corporation, liquidate or dissolve, or permit its liquidation or dissolution; if the Mortgagor is a trustee or trustees, terminate or dissolve, or permit its termination or dissolution; or if the Mortgagor is a partnership, dissolve or wind up its affairs, or permit its liquidation or the winding up of its affairs;
 - (c) file a petition or application under any state or federal bankruptcy, insolvency or debtor's relief law, nor consent to an assignment or composition for the benefit of the Mortgagor's creditors, nor consent to appointment of a receiver for any of the Mortgagor's property.
- (16) if this mortgage is at any time subject or subordinate to another mortgage, the Mortgagor shall not modify, amend, or extend such prior mortgage, or the debt or other obligation secured thereby, without the consent of the Mortgagee; any default under said prior mortgage or the obligations secured thereby shall be a default hereunder, and the Mortgagee shall be entitled but not obligated to cure said default, as provided in Paragraph 13 hereof; and
- (17) any notice, demand or other communication from the Mortgagee to the Mortgagor shall be deemed satisfactorily given upon depositing the same in writing in the United States mail by postage prepaid, registered or certified mail, addressed to the Mortgagor (or any one of them if there be more than one) at the Mortgagor's latest address in the mortgage records maintained by the Mortgagee.

The Mortgagor warrants and represents that it has never (i) occupied or operated a site or

vessel on which any hazardous material or oil was stored or transported without compliance with all statutes, regulations, ordinances, directives, and orders of every federal, state, municipal and other governmental authority which has or claims jurisdiction relative thereto, (site, vessel, and hazardous material respectively being defined in Massachusetts General Laws Chapter 21E); (ii) disposed of, transported, or arranged for the transport of any hazardous material or oil without compliance with all such statutes, regulations, ordinances, directives, and orders; (iii) been legally responsible for any release or threat of release of any hazardous material or oil; or (iv) received notification of any potential or known release or threat of release of any hazardous material or oil from any site or vessel occupied or operated by the Mortgagor or of the incurrence of any expense or loss in connection with the assessment, containment, or removal of any release or threat of release of any hazardous material or oil from any such site or vessel.

The Mortgagor warrants and represents that it shall not dispose of any hazardous material or oil on any site or vessel occupied or operated by the Mortgagor, or transport or arrange for the transport of any hazardous material or oil except if such storage or transport is in the ordinary course of the Mortgagor's business and is in compliance with all such statutes, regulations, ordinances, directives and orders. The Mortgagor shall take all such action, including, without limitation, the conducting of engineering tests to confirm that no hazardous material or oil is or ever was disposed of on any site or vessel or occupied or operated by the Mortgagor; and provide the Mortgagee with written notice (i) upon the intended storage or transport of any hazardous material or oil by the Mortgagor in any manner or fashion that is other than in Mortgagor's ordinary course of business; (ii) upon the Mortgagor's obtaining knowledge or notice of any potential or known release or threat of release of any hazardous material or oil at or from any site or vessel occupied or operated by the Mortgagor; or (iii) upon the Mortgagor's obtaining knowledge of any incurrence of any expense or loss by any governmental authority in connection with the assessment, containment, or removal of any hazardous material or oil for which expense or loss the Mortgagor may be liable.

Mortgagor shall indemnify and hold Mortgagee harmless from and against any and all costs, expenses, claims, damages, including without limitation, attorney's fees, suffered or incurred by Mortgagee on account of any lien or threatened lien against the premises or any portion thereof relating to M.G.L. Chapter 21E. Mortgagee shall have the right but not the obligation to cure any default by Mortgagor hereunder which relates to M.G.L. Chapter 21E and any funds or advances made by the Mortgagee to effect such cure shall be added to the principal sum of the debt under the note, shall earn interest at the rate set forth in said note, shall be secured by this mortgage, and shall be payable on demand of the Mortgagee, whether or not the remaining principal balance of said note has been declared due and payable.

Any breach in the covenants, conditions or agreements contained in this mortgage, or in any other instrument given in connection with the note secured hereby shall constitute a default hereunder, and upon such default the entire debt under the note shall become due and payable at the option of the Mortgagee, and the Mortgagee shall have the statutory Power of Sale as hereinafter provided.

In case any provision of said note and Guaranty, this mortgage, or any instrument executed by any person or organization in connection therewith shall be found unenforceable or invalid for any reason, the enforcement of any other provision hereof shall not be impaired thereby, and such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, shall be deleted from this mortgage.

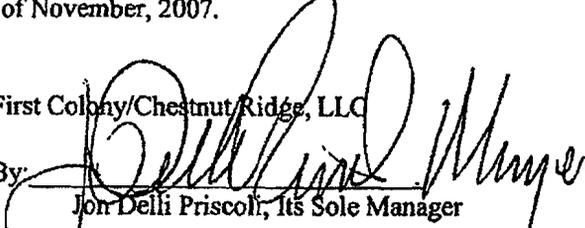
This mortgage is upon the STATUTORY CONDITION and upon the further condition that all covenants and agreements in the note, the Guaranty, this mortgage, all other instruments executed in connection herewith shall be kept and performed, and upon any breach the Mortgagee shall have the STATUTORY POWER OF SALE and any other powers given by statute.

The word "Mortgagor" as used herein means the Mortgagor named herein, whether one or several, and also means any subsequent owner or owners of the equity of redemption of the premises, and all of the covenants and agreements of the Mortgagor herein contained shall be binding upon the Mortgagor, its heirs, executors, administrators, successors and assigns and shall be joint and several if more than one person constitute the Mortgagor. The word "Mortgagee" as used herein means the Mortgagee named herein and any subsequent holder or holders of this mortgage.

Executed as a sealed instrument this 16th day of November, 2007.



Witness: Mark R. Haranas

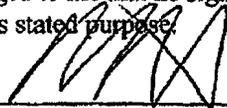
First Colony/Chestnut Ridge, LLC
By: 
Jon Delli Priscoli, Its Sole Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

November 16, 2007

On this 16th day of November, 2007, before me, the undersigned Notary Public, personally appeared Jon Delli Priscoli, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the above document and acknowledged to me that he signed it as Sole Manager of First Colony/Chestnut Ridge, LLC voluntarily for its stated purpose.



Notary Public
My Commission Expires

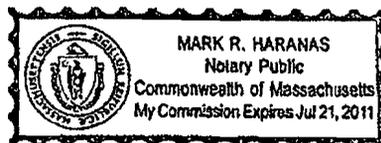


EXHIBIT 'A'

That certain parcel of land located Crowley Drive in Marlborough, Middlesex County Massachusetts being shown as Lot #1B on that certain plan entitled: "Plan of Land Crowley Drive, Marlborough, MA" Dated February 15, 2006, revised September 27, 2006, October 16, 2006 & October 18, 2006, Scale 1" = 80', Prepared By: Bruce Saluk & Associates, Inc." and recorded with the Middlesex South District Registry of Deeds as Plan Number 40 of 2007 and to which plan reference may be made for a more complete and accurate description of said Lot #1B.

Lot #1B contains 383,306 square feet of land or 8.80 acres, more or less according to the said Plan.

The above described premises are conveyed subject to and together the benefit of all matter set forth on said Plan, and subject to and together with the benefit of all other rights, easements, privileges and covenants of record or otherwise including, but not limited to, the following matters of record:

Grant of Easement dated December 13, 2002 and recorded with said Registry on December 18, 2002 in Book 37414, page 332.

Grant of Easement from the Commonwealth of Massachusetts to Richard Gaucher and filed with the Land Court as Document No. 608510, noted on Certificate of Title No. 156799 with said Registry in Book 914, page 49.

Sewer Easement dated February 13, 2002, recorded with said Registry in Book 34826, page 18.

Terms and provisions of Further Amended City Council Order to Lay Out Crowley Drive as a Private Way, dated January 4, 2007, recorded with said Registry in Book 48821, page 21.

Utility Easement, dated September 25, 2006, recorded with said Registry in Book 48821, page 37.

Terms and provisions of Declaration of Easements, Restrictions and Covenants, dated January 22, 2007, recorded with said Registry in Book 48877, page 27.

Terms and provisions of Use Restriction, dated January 22, 2007, recorded with said Registry in Book 48877, page 36.

Terms and provisions of Emergency Access Road and Stormwater Basin Maintenance Agreement, dated January 22, 2007, recorded with said Registry in Book 48877, page 46.

Matters shown on that certain plan entitled: "Final Layout of Crowley Drive, by the City of Marlborough," dated May 4, 2006 and recorded with said Registry as Plan No. 39 of 2007.

Matters shown on that certain plan entitled: "Easement Plan of Land in Marlborough, MA," dated August 14, 2006 and recorded with said Registry as Plan No. 42 of 2007.

For Title reference see Deed recorded with said Registry in Book 50312, page 99.

The address of the premises is: 100 Crowley Drive, Marlborough, Massachusetts

Paul C. P...

S. Register



02

ASSIGNMENT OF LICENSES AND PERMITS

ASSIGNOR: First Colony/Chestnut Ridge, LLC

ASSIGNEE: Framingham Co-operative Bank

THE PREMISES: 100 Crowley Drive, Marlborough, Massachusetts

The Assignee is loaning the Assignor \$2,500,000.00 to be repaid as stated in a certain Note of even date herewith (the "Note"), secured in part by a Mortgage and Security Agreement, ~~and by a Conditional Assignment of Leases and Rents, both of even date herewith,~~ recorded with the Middlesex South District Registry of Deeds and relating to the Premises therein defined. This Assignment is further to secure repayment of said Note, the full and faithful performance of all the Assignor's obligations (the "Obligations") pursuant thereto, and all of Assignor's Obligations contained in each of the financing instruments and Loan documents executed in connection with the Note this date.

The Assignor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, transfers and assigns to the Assignee all of the Assignor's right, title and interest in and to all licenses, permits and governmental approvals of every kind and nature, and all contracts now or hereafter related to the premises. The Assignor also hereby assigns all other rights or benefits or privileges which it has or the Premises including but not limited to the rights afforded to it under the instrument recorded with the Middlesex South District Registry of Deeds in Book 48877 page 36.

The Assignor warrants (1) that the same constitute all of the licenses, permits and governmental approvals required for the lawful construction of the improvements to the Premises as indicated to the Assignee; and (2) that each of said licenses, permits and governmental approvals has been duly issued, with appeal periods expired and no appeal taken, and each is presently duly outstanding and valid. The Assignor covenants to do all things necessary to obtain all licenses and permits required for the lawful operation of such construction to and on the Premises not now obtainable, and to do all things necessary to maintain all licenses, approvals and permits while any of the Obligations are outstanding.

Upon default in any of the Obligations, the Assignee shall have the right to exercise Assignor's rights under said licenses, permits and approvals, and upon foreclosure of the mortgage securing the Obligations, shall have the right to take all necessary action to transfer said licenses, permits and approvals to any purchaser of the Premises, and is hereby duly authorized to act as Assignor's lawful attorney-in-fact; this power of attorney is irrevocable and is coupled with an interest, with full rights of substitution, in connection therewith.

This Assignment shall be void and of no further force or effect upon satisfaction of all of the Obligations, but the affidavit, certificate, letter or statement of any officer, agent or attorney

Harvey
P.O. Box 966
Framingham, MA 01701-0966

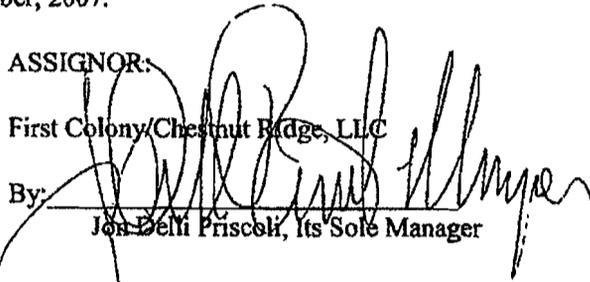
of the Assignee made in good faith showing any of the Obligations to be unsatisfied shall be conclusive evidence of the validity, effectiveness and continuing force of this Assignment and any person may, and hereby is authorized, to rely thereon.

The Assignee shall have no liability for any loss sustained by the Assignor resulting from Assignee's actions or failure to act hereunder unless such loss is caused by the willful misconduct or bad faith of the Assignee, nor shall the Assignee have any duty to take any action, either before or after default or foreclosure of the Mortgage on the Premises, with regard to the licenses, permits and other governmental approvals. Assignor shall and hereby does hold the Assignee harmless from any and all liability, loss or damage which may or might be incurred under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against the Assignee by any person, including without limitation, the Assignor, by reason of any alleged failure on its part to perform any obligations or duties under any of said licenses, permits and governmental approvals.

Executed under seal this 16th day of November, 2007.

WITNESS:


Mark R. Haranas

ASSIGNOR:
First Colony/Chestnut Ridge, LLC
By: 

Jon Delli Priscoli, Its Sole Manager

THE COMMONWEALTH OF MASSACHUSETTS

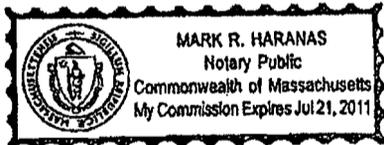
Middlesex, ss.

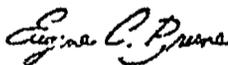
November 16, 2007

On this 16th day of November, 2007, before me, the undersigned notary public, personally appeared Jon Delli Priscoli, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the above document, and acknowledged to me that he signed it as Sole Manager of First Colony/Chestnut Ridge, LLC voluntarily for its stated purpose.



Notary Public
My Commission Expires:





Eugene C. Prisco
Notary Public, S. Register

KH

No. of Pages:
Haranas, Mayer, Jachowicz & Galvani
439 Worcester Road
P. O. Box 966
Framingham, Massachusetts 01701



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MORTGAGE AND SECURITY AGREEMENT

KNOW ALL MEN BY THESE PRESENTS

That FIRST COLONY/CHESTNUT RIDGE, LLC, a Massachusetts Limited Liability Company having a principal place of business at 929 Boston Post Road East, Marlborough, Massachusetts, hereinafter referred to as the "Mortgagor", FOR CONSIDERATION PAID, HEREBY GRANTS to FRAMINGHAM CO-OPERATIVE BANK, a banking corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, with a place of business at 828 Concord Street, Framingham, Massachusetts 01701, hereinafter referred to as the "Mortgagee", with MORTGAGE COVENANTS, to secure the payment of TWELVE MILLION FIVE HUNDRED THOUSAND AND NO/100 (\$12,500,000.00) DOLLARS as provided in Mortgagor's Note of even date, or any modifications, renewals or extensions thereof, and to secure payment of or performance of all other debts, covenants and agreements of or by Mortgagor to or for the benefit of the Mortgagee now existing or hereafter accruing while this mortgage is still undischarged of record, herewith, the land located at 100 Crowley Drive, Marlborough, Middlesex County, Massachusetts, as more particularly described in Exhibit "A" annexed hereto, which is incorporated herein by this reference, together with any and all improvements now or hereinafter situated thereon.

Also, the Mortgagor hereby grants to the Mortgagee a security interest under the Uniform Commercial Code (Mass. Gen. Laws Ch. 106) in all of the following now or hereinafter placed on the above described premises or used in connection therewith, and the proceeds therefrom, and agrees to execute on demand of the Mortgagee all instruments necessary to perfect or continue such security interest, and in the event of default hereunder the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to execute, deliver and record and/or file such instruments:

- (a) all machinery, equipment (as defined in the Uniform Commercial Code), furniture, inventory, building supplies, and appliances;
- (b) all furnaces, ranges, heaters, plumbing goods, gas and electric fixtures, screens, screen doors, mantels, shades, storm doors and windows, awnings, oil burners and tanks or other equipment, gas or electric refrigerators and refrigerating systems, ventilating and air conditioning apparatus and equipment, doorbell and alarm system, sprinkler and fire extinguishing systems, portable or section buildings, and all other fixtures of whatever kind or nature owned by the Mortgagor, now or in the future contained in or on the above-described premises, and any and

Address of Premises: 100 Crowley Drive, Marlborough, MA



- all similar fixtures hereinafter installed therein in any manner which renders such articles usable in connection therewith;
- (c) all leases, tenancies, and occupancies, whether written or not, together with all income and profit arising therefrom or from any of the foregoing Subparagraphs (a) and (b), and all payments due or to become due thereunder, including without limitation, all additional rent, damages, insurance payments, taxes, proceeds, condemnation awards, or any payments (including a purchase price) with respect to options contained therein;
 - (d) all contracts and agreements (together with the leases, contracts and agreements referred to in Subparagraph (c) above); licenses, permits and approvals; and warranties and representations relative to the use, operation, management, construction, repair or service of any items referred to in any of the foregoing Subparagraphs;
 - (e) any other property of the Mortgagor located on the mortgaged premises in which the Mortgagee may in the future be granted an interest;
 - (f) all funds held by the Mortgagee as tax insurance escrow accounts;
 - (g) all proceeds received from the sale, exchange, collection or other disposition of any of the foregoing Subparagraphs, all insurance proceeds relating to all or any portion of the foregoing Subparagraphs; and all awards, damages, proceeds, or refunds from any state, local, federal or other takings of, and all municipal tax abatements relating to, all or any portion of the foregoing Subparagraphs; and
 - (h) all rights, remedies, representations, warranties, and privileges pertaining to any of the foregoing Subparagraphs.

Said land, improvements, equipment, appliances, furnishings, fixtures, and other tangible property described above and hereinafter referred to as the "premises".

This Mortgage and Security Agreement is intended to take effect as a Mortgage pursuant to Massachusetts General Laws, Chapter 106, Section 9-133.

The Mortgagor hereby covenants and agrees to perform the following as conditions of this mortgage:

- (1) to perform all of the covenants and agreements contained in said note;
- (2) to pay when due all taxes, charges for water, sewer and other municipal services, and assessments, whether or not assessed against the Mortgagor, if applicable or related in any way to the premises, or any interest of the Mortgagor, the Mortgagee, or any other person or organization therein,

or the debt, obligations or performance secured hereby, or the disbursement or application of the proceeds therefrom, excluding, however, any income or corporation excise tax of the Mortgagee; on the demand of the Mortgagee to pay to the Mortgagee on each day that payments are required by the terms of the note, in addition to the payments of principal and/or interest provided in said note, a sum equal to such fraction of the real estate taxes, charges, and betterment assessments for each year as shall be estimated by the Mortgagee to provide in the aggregate, a sum equal to said taxes, charges and assessments as and when they become due and payable, and in addition, to pay to the Mortgagee any balance necessary to account in full for the amount of said taxes, charges and assessments prior to the date when they become due and payable; it being understood and agreed that such sums shall not bear interest, that the Mortgagee shall not be required to account for any profits resulting from its use thereof, and that said sums are held by the Mortgagee for payment on account of such taxes, charges and assessments and/or any other obligations of the Mortgagor hereunder; to forward to the Mortgagee receipted real estate tax bills as soon as the same have been paid by the Mortgagor or, in case tax payments are required to be made to the Mortgagee, to forward to the Mortgagee real estate tax bills as soon as the same have been received by the Mortgagor;

- (3) to keep the premises insured against fire and all such other casualties and contingencies as the Mortgagee may from time to time require; to deposit at the demand of the Mortgagee all insurance policies or memoranda thereof with the Mortgagee forthwith after the binding of such insurance, and to deliver to the Mortgagee new policies or memoranda thereof for any insurance about to expire at least seven (7) days before such expiration, all such insurance to be first payable in case of loss to the Mortgagee on such terms, in such form and for such periods and amounts as the Mortgagee shall from time to time designate or approve, and the Mortgagor hereby grants the Mortgagee in the event of a default hereunder full power and authority as attorney irrevocable of the Mortgagor to cancel or transfer such insurance and to retain any premium or proceeds and to apply the same to the debt under the note;
- (4) if new construction or rehabilitation, to comply with all of the terms and conditions of the Construction Loan Agreement of even date and delivery herewith, and to put, maintain and keep the premises at all times in as good repair and condition as at present or as the same shall be made if new construction, damage from casualty expressly not excepted, permitting and suffering no waste or strip of the same to occur, nor any violation of any law, by-law, ordinance, restriction, regulation, order or code affecting the premises or the use thereof; and not to remove or alter any of the improvements, equip-

ment, appliances, furnishings, and fixtures constituting part of the premises without the consent of the Mortgagee;

- (5) to occupy the entire premises, or cause the same to be occupied by lessees (which term shall include licensees and concessionaires) and to assign and deliver to the Mortgagee on demand any or all leases of the premises or any part thereof, or at the Mortgagee's election, to assign and deliver any and all rents and other income reserved in such leases, said assignments to be in form and substance satisfactory to the Mortgagee, and the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to make, execute, acknowledge, deliver and record such assignments, and not in limitation of the foregoing, to provide that after any default by the Mortgagor hereunder or under the terms of such assignments, the Mortgagee shall be entitled to modify and otherwise deal with all such leases with the same power and discretion which the Mortgagee would have if it were the lessor thereof, and the Mortgagee shall be entitled to collect all of the rents and other income reserved in such leases and to apply the same to the debt under the note, and after foreclosure the Mortgagee shall not be liable to account to the Mortgagor for rents or other income thereafter accruing, provided, however, that any such assignments shall also provide that the Mortgagor may have and retain such rents and other income until such default occurs; and the Mortgagee shall further have the right to subordinate this Mortgage and its rights hereunder to any lease or leases of the premises now or hereafter in force, and upon execution and recording of any instruments by the Mortgagee which purports to affect such subordination, this Mortgage shall subordinate to the lease or leases referred to in such instruments with the same force and effect as if such lease or leases had been executed and delivered prior to the execution, delivery and recording of this mortgage;
- (6) to observe and perform all the obligations imposed upon the Mortgagor under any leases of the premises and not to do or permit to be done anything which would impair the security of such leases to the Mortgagee, nor to cancel or change any terms, conditions or covenants of any leases of the premises or any part thereof without the prior written consent of the Mortgagee, nor to execute any leases providing for payment of rent for more than one month in advance, nor to receive rent from all or any part of the premises for more than one month in advance without the prior written consent of the Mortgagee, and any such advance rent in excess of one month received shall be held by the Mortgagor in trust for the benefit of the Mortgagee;
- (7) to furnish the Mortgagee, from time to time, within a reasonable time after its demand, a true and complete statement of the annual operating expenses and income of the premises, any financial statements of the principal owners and any

guarantors, or endorsers, such statements to be in form satisfactory to Mortgagee;

- (8) that if the premises or any part thereof shall be damaged or destroyed by fire or other hazard against which insurance is held, or if the premises or any other portion thereof shall be taken by eminent domain, no settlement on account of any loss or damage shall be made without the consent of the Mortgagee, and any proceeds from insurance or damages for such taking, as the case may be, shall be paid to the Mortgagee, and the Mortgagor hereby irrevocably assigns the same to the Mortgagee; the Mortgagee at its direction may either apply such proceeds against the debt under the note (in which case the Mortgagor's obligations hereunder to restore such damage to the premises as may have been caused by such fire, other hazard or taking, shall terminate), or release such portion of the proceeds to the Mortgagor as is necessary to restore the premises to their prior condition insofar as is practicable, upon such terms and conditions as the Mortgagee deems appropriate, and apply the balance thereof, if any, to the debt under the note; provided, however, that if any insurer of the premises denies liability, the Mortgagor shall not be relieved of its obligation to restore the premises;
- (9) if the Mortgagor shall default in the performance or observance of any covenant or agreement herein or in said note or Guaranty contained, or in payment or performance of any other obligation secured hereby, the Mortgagee may apply toward the debt under the note any deposit, payment or any sum due from the Mortgagee to the Mortgagor without first enforcing any other rights of the Mortgagee against the Mortgagor, or against any other endorser or guarantor under the note or against the premises;
- (10) if the Mortgagee shall become involved in any action or course of conduct with respect to the premises, or other security for the obligations secured hereby, in order to protect its interest therein, including without limitation: the Mortgagee's commencement and prosecution of foreclosure proceedings; its involvement in bankruptcy proceedings concerning the Mortgagor or its Guarantors; the Mortgagee's entering the premises, care and management thereof; or its defending or participation as a party in any action at law or in equity brought by the Mortgagor or any other person or organization with respect to the premises (or other security for the obligations secured hereby), the Mortgagor shall reimburse the Mortgagee for all charges, costs and expenses incurred by the Mortgagee in connection therewith, including without limitation attorney's fees.
- (11) that at any foreclosure sale of the premises, the premises and any combination or all of the other security for the obligations secured hereby may be offered for sale for one total price, and the proceeds of such sale may be accounted for in one

account without distinction between the items of security or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling; and the Mortgagee may, in the exercise of the power of sale herein given, sell the premises and said other security in parts or parcels, said sales may be held from time to time, and the power shall not be fully executed until all of the premises and said other security not previously sold shall have been sold; if surplus proceeds are realized from a foreclosure sale, the Mortgagee shall not be liable for any interest thereon pending distribution of such proceeds by the Mortgagee;

- (12) to notify the Mortgagee promptly of the existence of and the exact details of any other security interest in the premises, now existing or hereafter arising, to make all payments that become due under the note having such security interests, and at the request of the Mortgagee all its right, title and interest in and to any and all agreements evidencing such security interest covering any of said security, and the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to make, execute, acknowledge and deliver such assignments; that no security interest presently exists in any of said security except as has heretofore been disclosed in writing to the Mortgagee;
- (13) that the Mortgagee shall be entitled, but not obligated, to cure any default of the Mortgagor hereunder, and shall be reimbursed by the Mortgagor for all costs and charges and expenses, including without limitation attorneys' fees, incurred in connection therewith, and that all sums for which the Mortgagee may be entitled to reimbursement shall be added to the principal sum of the debt under the note, shall earn interest at the rate set forth in said note, shall be secured by this mortgage, and shall be payable on demand of the Mortgagee, whether or not the remaining principal balance of said note has been declared due and payable;
- (14) in the event the legal or beneficial ownership of said premises, or any portion thereof or interest therein becomes vested in anyone other than the Mortgagor (including without limitation, an assignment of a partnership interest, if the Mortgagor is a partnership, and a transfer of shares, if the Mortgagor is a corporation, or upon the death of, or appointment of a guardian or conservator for, the Mortgagor or any Guarantors or endorser (other than an endorser without recourse) of the note the entire mortgage debt shall, at the option of the Mortgagee, become due and payable on demand, provided, however, that the Mortgagee may, without notice to the Mortgagor, deal with the Mortgagor's successor or successors in interest with reference to the mortgage and the debt under the note in the same manner as with the Mortgagor without in any way vitiating or discharging the Mortgagor's liability or obligations with respect to this mortgage or the debt under the note. No sale of the premises hereby mortgaged and no forbearance on the part of the Mortgagee or extension of the time for the

payment of the debt under the note or any other indulgence given by the Mortgagee shall operate to release, discharge, modify, change or affect the liability of the Mortgagor, nor the priority of this mortgage either in whole or part, notice of such forbearance, extension or other indulgence being hereby expressly waived;

- (15) that the Mortgagor shall not:
- (a) create or permit to be created any encumbrance to attach to the premises (except for the payment of real estate taxes and betterment assessments prior to the commencement of interest and penalties thereon), and if such encumbrance is attached upon the premises without the consent of the Mortgagor, to discharge the same within sixty (60) days of the date of such attachment;
 - (b) if the Mortgagor is a corporation, liquidate or dissolve, or permit its liquidation or dissolution; if the Mortgagor is a trustee or trustees, terminate or dissolve, or permit its termination or dissolution; or if the Mortgagor is a partnership, dissolve or wind up its affairs, or permit its liquidation or the winding up of its affairs;
 - (c) file a petition or application under any state or federal bankruptcy, insolvency or debtor's relief law, nor consent to an assignment or composition for the benefit of the Mortgagor's creditors, nor consent to appointment of a receiver for any of the Mortgagor's property.
- (16) if this mortgage is at any time subject or subordinate to another mortgage, the Mortgagor shall not modify, amend, or extend such prior mortgage, or the debt or other obligation secured thereby, without the consent of the Mortgagee; any default under said prior mortgage or the obligations secured thereby shall be a default hereunder, and the Mortgagee shall be entitled but not obligated to cure said default, as provided in Paragraph 13 hereof; and
- (17) any notice, demand or other communication from the Mortgagee to the Mortgagor shall be deemed satisfactorily given upon depositing the same in writing in the United States mail by postage prepaid, registered or certified mail, addressed to the Mortgagor (or any one of them if there be more than one) at the Mortgagor's latest address in the mortgage records maintained by the Mortgagee.

The Mortgagor warrants and represents that it has never (i) occupied or operated a site or vessel on which any hazardous material or oil was stored or transported without compliance with all statutes, regulations, ordinances, directives, and orders of every federal, state, municipal and other governmental authority which has or claims jurisdiction relative thereto, (site, vessel, and

hazardous material respectively being defined in Massachusetts General Laws Chapter 21E); (ii) disposed of, transported, or arranged for the transport of any hazardous material or oil without compliance with all such statutes, regulations, ordinances, directives, and orders; (iii) been legally responsible for any release or threat of release of any hazardous material or oil; or (iv) received notification of any potential or known release or threat of release of any hazardous material or oil from any site or vessel occupied or operated by the Mortgagor or of the incurrence of any expense or loss in connection with the assessment, containment, or removal of any release or threat of release of any hazardous material or oil from any such site or vessel.

The Mortgagor warrants and represents that it shall not dispose of any hazardous material or oil on any site or vessel occupied or operated by the Mortgagor, or transport or arrange for the transport of any hazardous material or oil except if such storage or transport is in the ordinary course of the Mortgagor's business and is in compliance with all such statutes, regulations, ordinances, directives and orders. The Mortgagor shall take all such action, including, without limitation, the conducting of engineering tests to confirm that no hazardous material or oil is or ever was disposed of on any site or vessel or occupied or operated by the Mortgagor; and provide the Mortgagee with written notice (i) upon the intended storage or transport of any hazardous material or oil by the Mortgagor in any manner or fashion that is other than in Mortgagor's ordinary course of business; (ii) upon the Mortgagor's obtaining knowledge or notice of any potential or known release or threat of release of any hazardous material or oil at or from any site or vessel occupied or operated by the Mortgagor; or (iii) upon the Mortgagor's obtaining knowledge of any incurrence of any expense or loss by any governmental authority in connection with the assessment, containment, or removal of any hazardous material or oil for which expense or loss the Mortgagor may be liable.

Mortgagor shall indemnify and hold Mortgagee harmless from and against any and all costs, expenses, claims, damages, including without limitation, attorney's fees, suffered or incurred by Mortgagee on account of any lien or threatened lien against the premises or any portion thereof relating to M.G.L. Chapter 21E. Mortgagee shall have the right but not the obligation to cure any default by Mortgagor hereunder which relates to M.G.L. Chapter 21E and any funds or advances made by the Mortgagee to effect such cure shall be added to the principal sum of the debt under the note, shall earn interest at the rate set forth in said note, shall be secured by this mortgage, and shall be payable on demand of the Mortgagee, whether or not the remaining principal balance of said note has been declared due and payable.

Any breach in the covenants, conditions or agreements contained in this mortgage, or in any other instrument given in connection with the note secured hereby shall constitute a default hereunder, and upon such default the entire debt under the note shall become due and payable at the option of the Mortgagee, and the Mortgagee shall have the statutory Power of Sale as hereinafter provided.

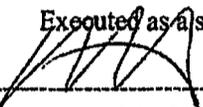
In case any provision of said note and Guaranty, this mortgage, or any instrument executed by any person or organization in connection therewith shall be found unenforceable or

invalid for any reason, the enforcement of any other provision hereof shall not be impaired thereby, and such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, shall be deleted from this mortgage.

This mortgage is upon the STATUTORY CONDITION and upon the further condition that all covenants and agreements in the note, the Guaranty, this mortgage, all other instruments executed in connection herewith shall be kept and performed, and upon any breach the Mortgagee shall have the STATUTORY POWER OF SALE and any other powers given by statute.

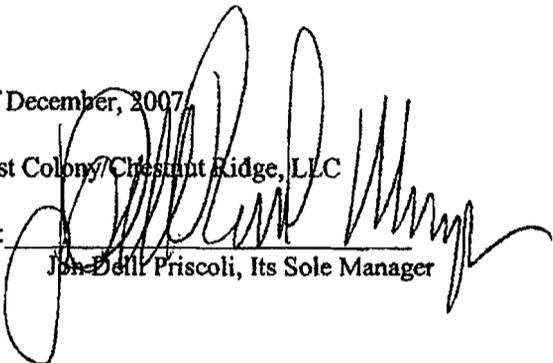
The word "Mortgagor" as used herein means the Mortgagor named herein, whether one or several, and also means any subsequent owner or owners of the equity of redemption of the premises, and all of the covenants and agreements of the Mortgagor herein contained shall be binding upon the Mortgagor, its heirs, executors, administrators, successors and assigns and shall be joint and several if more than one person constitute the Mortgagor. The word "Mortgagee" as used herein means the Mortgagee named herein and any subsequent holder or holders of this mortgage.

Executed as a sealed instrument this 28th day of December, 2007.



Witness: Mark R. Haranas

First Colony/Chestnut Ridge, LLC

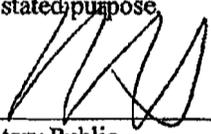
By: 
Jon Delli Priscoli, Its Sole Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

December 28, 2007

On this 28th day of December, 2007, before me, the undersigned Notary Public, personally appeared Jon Delli Priscoli, proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's License, to be the person whose name is signed on the above document and acknowledged to me that he signed it as Sole Manager of First Colony/Chestnut Ridge, LLC voluntarily for its stated purpose.



Notary Public
My Commission Expires

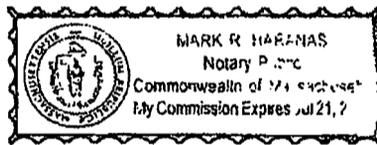


EXHIBIT 'A'

That certain parcel of land located Crowley Drive in Marlborough, Middlesex County Massachusetts being shown as Lot #1B on that certain plan entitled: ""Plan of Land Crowley Drive, Marlborough, MA" Dated February 15, 2006, revised September 27, 2006, October 16, 2006 & October 18, 2006, Scale 1" = 80', Prepared By: Bruce Saluk & Associates, Inc." and recorded with the Middlesex South District Registry of Deeds as Plan Number 40 of 2007 and to which plan reference may be made for a more complete and accurate description of said Lot #1B.

Lot #1B contains 383,306 square feet of land or 8.80 acres, more or less according to the said Plan.

The above described premises are conveyed subject to and together the benefit of all matter set forth on said Plan, and subject to and together with the benefit of all other rights, easements, privileges and covenants of record or otherwise including, but not limited to, the following matters of record:

Grant of Easement dated December 13, 2002 and recorded with said Registry on December 18, 2002 in Book 37414, page 332.

Grant of Easement from the Commonwealth of Massachusetts to Richard Gaucher and filed with the Land Court as Document No. 608510, noted on Certificate of Title No. 156799 with said Registry in Book 914, page 49.

Sewer Easement dated February 13, 2002, recorded with said Registry in Book 34826, page 18.

Terms and provisions of Further Amended City Council Order to Lay Out Crowley Drive as a Private Way, dated January 4, 2007, recorded with said Registry in Book 48821, page 21.

Utility Easement, dated September 25, 2006, recorded with said Registry in Book 48821, page 37.

Terms and provisions of Declaration of Easements, Restrictions and Covenants, dated January 22, 2007, recorded with said Registry in Book 48877, page 27.

Terms and provisions of Use Restriction, dated January 22, 2007, recorded with said Registry in Book 48877, page 36.

Terms and provisions of Emergency Access Road and Stormwater Basin Maintenance Agreement, dated January 22, 2007, recorded with said Registry in Book 48877, page 46.

Matters shown on that certain plan entitled: "Final Layout of Crowley Drive, by the City of Marlborough," dated May 4, 2006 and recorded with said Registry as Plan No. 39 of 2007.

Matters shown on that certain plan entitled: "Easement Plan of Land in Marlborough, MA," dated August 14, 2006 and recorded with said Registry as Plan No. 42 of 2007.

For Title reference see Deed recorded with said Registry in Book 50312, page 99.

The address of the premises is: 100 Crowley Drive, Marlborough, Massachusetts


Attest Middlesex S. Register

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<http://www.wbjournal.com>

Building On Spec? Not Just Yet, Real Estate Experts Say

BY MICHAEL NOVINSON

11/25/2013

Despite declining vacancy levels and rising rent, Central Massachusetts real estate investors still aren't looking to build or renovate commercial and industrial properties without a tenant, local brokers say.

But speculative development could return to much of the region within the next few years, most experts said.

Low vacancy levels and high rental rates spur speculative development, said Bill Manley, CEO of Calare Properties in Hudson. Such activity makes it possible for companies to relocate to the area on very short notice.

"Speculative development is just a sign of a healthy business ecosystem," Manley said.

Developers in Central Massachusetts would need to see vacancy rates of less than 8 percent, industrial rents of at least \$6.50 per square foot or commercial rents of at least \$7.50 per square foot to make speculative activity worthwhile, Manley said.

Those figures have rebounded since the worst of the recession, Manley said, but vacancy rates for the region still remain at 12-20 percent and industrial rents \$5.25 to \$5.75 per square foot.

"We're still in the hangover phase of ... economic malaise," he said.

Investors need the potential for large profit margins to justify the risk of developing property without a guaranteed occupant, added Steve Elliott, owner of appraisal firm Elliott, Gottschalk & Associates in Framingham.

Such a return on investment can be achieved in Boston, Waltham and along the Route 128 corridor, said Garry Holmes, president of R.W. Holmes Realty in Wayland.

However, it has been very rare for investors west of Interstate 495 to buy or build on speculation, said Tim Norton, president and founder of Apex Properties in Leominster.

"You're throwing up the building and crossing your fingers that the right tenants will come at the right time," Holmes said.

But that's a risk that would benefit Central Massachusetts developers should they take it, said Tom Kelleher, senior vice president of Kelleher & Sadowsky in Worcester.

Good Deals From Contractors?

Property and building materials such as structural steel can be acquired very cheaply, Kelleher said. And contractors in the Worcester area are willing to cut prices to land more projects, he said.

Yet the leasing market has improved enough for developers to get a good return on investment after some remodeling, he said.

"The market's gaining speed at a slow pace," Kelleher said.

A few experts reported some recent speculative activity. Elliott said he saw some speculative dabbling from the start of 2012 until interest rates and property values began to rise in the middle of this year.

Devon Kinnard, an attorney with the business law firm DarrowEverett in Worcester, said investors have been picking up medium and large commercial and industrial properties in Greater Worcester and North Central Massachusetts over the past year with the intent of renovating and leasing.

Holmes expects the market to be strong enough by the end of 2014 to permit speculative development in the Framingham-Natick area.

But the few developers willing to undertake speculative projects during the recession have hit obstacles.

In 2008, Apex purchased the 90,000-square-foot former Army Intelligence Center at 27 Jackson Rd. in Devens after B Squibb announced plans for a pharmaceutical plant across the street, Norton said.



The company leased 65,000 square feet in 2009 to Mount Wachusett Community College and R3 Education Inc., Norton said. But despite at least three serious conversations, Apex still hasn't been able to find a tenant for the remaining 25,000 square feet.

In early 2010, First Colony Development finished construction on a four-story, 100,000-square-foot hub for life sciences and high-tech firms at 100 Crowley Dr. in Marlborough, said CEO Jon Delli Priscoli. The top two floors remain unoccupied.

"My timing couldn't have been worse," Priscoli said.

Calare purchased a bank-owned 140,000-square-foot office building at 417 South St. in Marlborough at a discounted price of \$1.8 million — or \$12.85 per square foot — Manley said. New office construction in the area would have cost roughly \$100 per square foot, he said.

Calare still upgraded the empty complex, Manley said. The company secured its first tenant for 35,000 square feet of space recently.

Though speculative development can attract new businesses and modernize outdated buildings, some experts said the activity poses its own set of risks.

Excessive speculation can distort the market by leading to major swings in property values, Elliott said.

"People are purchasing property not for the basic reasons," he said.

And while the region experienced some speculative activity during the 1990s and mid-2000s, Central Massachusetts avoided the rampant speculation taking place at that time in places like Florida, Nevada and Arizona, said Jeff Borus, vice president of Glickman Kovago & Co. in Worcester.

"It softened the blow we ended up taking during the recession," Borus said. "We weren't overdeveloped here."

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Mayer Antonellis, Jachowicz & Haranas, LLP
439 Worcester Road
P. O. Box 966
Framingham, Massachusetts 01701

MORTGAGE AND SECURITY AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, That First Colony/Chestnut Ridge, LLC, a Massachusetts Limited Liability Company with a principal place of business at 929 Boston Post Road East, Marlborough, Middlesex County, Massachusetts hereinafter referred to as the "Mortgagor", FOR CONSIDERATION PAID, hereby grants to MutualOne Bank, a banking corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, with a place of business at 828 Concord Street, Framingham, Massachusetts 01701, hereinafter referred to as the "Mortgagee", with MORTGAGE COVENANTS, to secure the payment of SIX HUNDRED THOUSAND and No/100 (\$600,000.00) DOLLARS as provided in Mortgagor's Guaranty of even date, or any modifications, renewals or extensions thereof, and to secure payment of or performance of all other debts, covenants and agreements of or by Mortgagor to or for the benefit of the Mortgagee now existing or hereafter accruing while this mortgage is still undischarged of record, herewith, the land located at 100 Crowley Drive, Marlborough, Middlesex County, Massachusetts, as more particularly described in Exhibit "A" annexed hereto, which is incorporated herein by this reference, together with any and all improvements now or hereinafter situated thereon.

Property Address: 100 Crowley Drive, Marlborough

Also, the Mortgagor hereby grants to the Mortgagee a security interest under the Uniform Commercial Code (Mass. Gen. Laws Ch. 106) in all of the following now or hereinafter placed on the above described premises or used in connection therewith, and the proceeds therefrom, and agrees to execute on demand of the Mortgagee all instruments necessary to perfect or continue such security interest, and in the event of default hereunder the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to execute, deliver and record and/or file such instruments:

- (a) all machinery, equipment (as defined in the Uniform Commercial Code), furniture, inventory, building supplies, and appliances;
- (b) all furnaces, ranges, heaters, plumbing goods, gas and electric fixtures, screens, screen doors, mantels, shades, storm doors and windows, awnings, oil burners and tanks or other equipment, gas or electric refrigerators and refrigerating systems, ventilating and air conditioning apparatus and equipment, doorbell and alarm system, sprinkler and fire extinguishing systems, portable or section buildings, and all other fixtures of whatever kind or nature owned by the Mortgagor, now or in the future contained in or on the above-described premises, and any and all similar fixtures hereinafter installed therein in any manner which renders such articles usable in connection therewith;





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- (a) all machinery, equipment (as defined in the Uniform Commercial Code), furniture, inventory, building supplies, and appliances;
- (b) all furnaces, ranges, heaters, plumbing goods, gas and electric fixtures, screens, screen doors, mantels, shades, storm doors and windows, awnings, oil burners and tanks or other equipment, gas or electric refrigerators and refrigerating systems, ventilating and air conditioning apparatus and equipment, doorbell and alarm system, sprinkler and fire extinguishing systems, portable or section buildings, and all other fixtures of whatever kind or nature owned by the Mortgagor, now or in the future contained in or on the above-described premises, and any and all similar fixtures hereinafter installed therein in any manner which renders such articles usable in connection therewith;



- (c) all leases, tenancies, and occupancies, whether written or not, together with all income and profit arising therefrom or from any of the foregoing Subparagraphs (a) and (b), and all payments due or to become due thereunder, including without limitation, all additional rent, damages, insurance payments, taxes, proceeds, condemnation awards, or any payments (including a purchase price) with respect to options contained therein;
- (d) all contracts and agreements (together with the leases, contracts and agreements referred to in Subparagraph (c) above); licenses, permits and approvals; and warranties and representations relative to the use, operation, management, construction, repair or service of any items referred to in any of the foregoing Subparagraphs;
- (e) any other property of the Mortgagor located on the mortgaged premises in which the Mortgagee may in the future be granted an interest;
- (f) all funds held by the Mortgagee as tax insurance escrow accounts;
- (g) all proceeds received from the sale, exchange, collection or other disposition of any of the foregoing Subparagraphs, all insurance proceeds relating to all or any portion of the foregoing Subparagraphs; and all awards, damages, proceeds, or refunds from any state, local, federal or other takings of, and all municipal tax abatements relating to, all or any portion of the foregoing Subparagraphs; and
- (h) all rights, remedies, representations, warranties, and privileges pertaining to any of the foregoing Subparagraphs.

Said land, improvements, equipment, appliances, furnishings, fixtures, and other tangible property described above and hereinafter referred to as the "premises".

This Mortgage and Security Agreement is intended to take effect as a Mortgage pursuant to Massachusetts General Laws, Chapter 106, Section 9-133.

The Mortgagor hereby covenants and agrees to perform the following as conditions of this mortgage:

- (1) to perform all of the covenants and agreements contained in said note;
- (2) to pay when due all taxes, charges for water, sewer and other municipal services, and assessments, whether or not assessed against the Mortgagor, if applicable or related in any way to the premises, or any interest of the Mortgagor, the Mortgagee, or any other person or organization therein, or the debt, obligations or performance secured hereby, or the disbursement or application of the proceeds therefrom, excluding, however, any income or

corporation excise tax of the Mortgagee; on the demand of the Mortgagee to pay to the Mortgagee on each day that payments are required by the terms of the note, in addition to the payments of principal and/or interest provided in said note, a sum equal to such fraction of the real estate taxes, charges, and betterment assessments for each year as shall be estimated by the Mortgagee to provide in the aggregate, a sum equal to said taxes, charges and assessments as and when they become due and payable, and in addition, to pay to the Mortgagee any balance necessary to account in full for the amount of said taxes, charges and assessments prior to the date when they become due and payable; it being understood and agreed that such sums shall not bear interest, that the Mortgagee shall not be required to account for any profits resulting from its use thereof, and that said sums are held by the Mortgagee for payment on account of such taxes, charges and assessments and/or any other obligations of the Mortgagor hereunder; to forward to the Mortgagee receipted real estate tax bills as soon as the same have been paid by the Mortgagor or, in case tax payments are required to be made to the Mortgagee, to forward to the Mortgagee real estate tax bills as soon as the same have been received by the Mortgagor;

- (3) to keep the premises insured against fire and all such other casualties and contingencies as the Mortgagee may from time to time require; to deposit at the demand of the Mortgagee all insurance policies or memoranda thereof with the Mortgagee forthwith after the binding of such insurance, and to deliver to the Mortgagee new policies or memoranda thereof for any insurance about to expire at least seven (7) days before such expiration, all such insurance to be first payable in case of loss to the Mortgagee on such terms, in such form and for such periods and amounts as the Mortgagee shall from time to time designate or approve, and the Mortgagor hereby grants the Mortgagee in the event of a default hereunder full power and authority as attorney irrevocable of the Mortgagor to cancel or transfer such insurance and to retain any premium or proceeds and to apply the same to the debt under the note;
- (4) if new construction or rehabilitation, to comply with all of the terms and conditions of the Construction Loan Agreement of even date and delivery herewith, and to put, maintain and keep the premises at all times in as good repair and condition as at present or as the same shall be made if new construction, damage from casualty expressly not excepted, permitting and suffering no waste or strip of the same to occur, nor any violation of any law, by-law, ordinance, restriction, regulation, order or code affecting the premises or the use thereof; and not to remove or alter any of the improvements, equipment, appliances, furnishings, and fixtures constituting part of the premises without the consent of the Mortgagee;
- (5) to occupy the entire premises, or cause the same to be occupied by lessees

(which term shall include licensees and concessionaires) and to assign and deliver to the Mortgagee on demand any or all leases of the premises or any part thereof, or at the Mortgagee's election, to assign and deliver any and all rents and other income reserved in such leases, said assignments to be in form and substance satisfactory to the Mortgagee, and the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to make, execute, acknowledge, deliver and record such assignments, and not in limitation of the foregoing, to provide that after any default by the Mortgagor hereunder or under the terms of such assignments, the Mortgagee shall be entitled to modify and otherwise deal with all such leases with the same power and discretion which the Mortgagee would have if it were the lessor thereof, and the Mortgagee shall be entitled to collect all of the rents and other income reserved in such leases and to apply the same to the debt under the note, and after foreclosure the Mortgagee shall not be liable to account to the Mortgagor for rents or other income thereafter accruing, provided, however, that any such assignments shall also provide that the Mortgagor may have and retain such rents and other income until such default occurs; and the Mortgagee shall further have the right to subordinate this Mortgage and its rights hereunder to any lease or leases of the premises now or hereafter in force, and upon execution and recording of any instruments by the Mortgagee which purports to affect such subordination, this Mortgage shall subordinate to the lease or leases referred to in such instruments with the same force and effect as if such lease or leases had been executed and delivered prior to the execution, delivery and recording of this mortgage;

- (6) to observe and perform all the obligations imposed upon the Mortgagor under any leases of the premises and not to do or permit to be done anything which would impair the security of such leases to the Mortgagee, nor to cancel or change any terms, conditions or covenants of any leases of the premises or any part thereof without the prior written consent of the Mortgagee, nor to execute any leases providing for payment of rent for more than one month in advance, nor to receive rent from all or any part of the premises for more than one month in advance without the prior written consent of the Mortgagee, and any such advance rent in excess of one month received shall be held by the Mortgagor in trust for the benefit of the Mortgagee;
- (7) to furnish the Mortgagee, from time to time, within a reasonable time after its demand, a true and complete statement of the annual operating expenses and income of the premises, any financial statements of the principal owners and any guarantors, or endorsers, such statements to be in form satisfactory to Mortgagee;
- (8) that if the premises or any part thereof shall be damaged or destroyed by fire or other hazard against which insurance is held, or if the premises or any other portion thereof shall be taken by eminent domain, no settlement on account of any loss or damage shall be made without the consent of the Mortgagee, and any

proceeds from insurance or damages for such taking, as the case may be, shall be paid to the Mortgagee, and the Mortgagor hereby irrevocably assigns the same to the Mortgagee; the Mortgagee at its direction may either apply such proceeds against the debt under the note (in which case the Mortgagor's obligations hereunder to restore such damage to the premises as may have been caused by such fire, other hazard or taking, shall terminate), or release such portion of the proceeds to the Mortgagor as is necessary to restore the premises to their prior condition insofar as is practicable, upon such terms and conditions as the Mortgagee deems appropriate, and apply the balance thereof, if any, to the debt under the note; provided, however, that if any insurer of the premises denies liability, the Mortgagor shall not be relieved of its obligation to restore the premises;

- (9) if the Mortgagor shall default in the performance or observance of any covenant or agreement herein or in said note or Guaranty contained, or in payment or performance of any other obligation secured hereby, the Mortgagee may apply toward the debt under the note any deposit, payment or any sum due from the Mortgagee to the Mortgagor without first enforcing any other rights of the Mortgagee against the Mortgagor, or against any other endorser or guarantor under the note or against the premises;
- (10) if the Mortgagee shall become involved in any action or course of conduct with respect to the premises, or other security for the obligations secured hereby, in order to protect its interest therein, including without limitation: the Mortgagee's commencement and prosecution of foreclosure proceedings; its involvement in bankruptcy proceedings concerning the Mortgagor or its Guarantors; the Mortgagee's entering the premises, care and management thereof; or its defending or participation as a party in any action at law or in equity brought by the Mortgagor or any other person or organization with respect to the premises (or other security for the obligations secured hereby), the Mortgagor shall reimburse the Mortgagee for all charges, costs and expenses incurred by the Mortgagee in connection therewith, including without limitation attorney's fees.
- (11) that at any foreclosure sale of the premises, the premises and any combination or all of the other security for the obligations secured hereby may be offered for sale for one total price, and the proceeds of such sale may be accounted for in one account without distinction between the items of security or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling; and the Mortgagee may, in the exercise of the power of sale herein given, sell the premises and said other security in parts or parcels, said sales may be held from time to time, and the power shall not be fully executed until all of the premises and said other security not previously sold shall have been sold; if surplus proceeds are realized from a foreclosure sale, the Mortgagee shall not be liable for any interest thereon pending distribution of such proceeds by the Mortgagee;

- (12) to notify the Mortgagee promptly of the existence of and the exact details of any other security interest in the premises, now existing or hereafter arising, to make all payments that become due under the note having such security interests, and at the request of the Mortgagee all its right, title and interest in and to any and all agreements evidencing such security interest covering any of said security, and the Mortgagor hereby grants the Mortgagee full power and authority as attorney irrevocable of the Mortgagor to make, execute, acknowledge and deliver such assignments; that no security interest presently exists in any of said security except as has heretofore been disclosed in writing to the Mortgagee;
- (13) that the Mortgagee shall be entitled, but not obligated, to cure any default of the Mortgagor hereunder, and shall be reimbursed by the Mortgagor for all costs and charges and expenses, including without limitation attorneys' fees, incurred in connection therewith, and that all sums for which the Mortgagee may be entitled to reimbursement shall be added to the principal sum of the debt under the note, shall earn interest at the rate set forth in said note, shall be secured by this mortgage, and shall be payable on demand of the Mortgagee, whether or not the remaining principal balance of said note has been declared due and payable;
- (14) in the event the legal or beneficial ownership of said premises, or any portion thereof or interest therein becomes vested in anyone other than the Mortgagor (including without limitation, an assignment of a partnership interest, if the Mortgagor is a partnership, and a transfer of shares, if the Mortgagor is a corporation, or upon the death of, or appointment of a guardian or conservator for, the Mortgagor or any Guarantors or endorsers (other than an endorser without recourse) of the note the entire mortgage debt shall, at the option of the Mortgagee, become due and payable on demand, provided, however, that the Mortgagee may, without notice to the Mortgagor, deal with the Mortgagor's successor or successors in interest with reference to the mortgage and the debt under the note in the same manner as with the Mortgagor without in any way vitiating or discharging the Mortgagor's liability or obligations with respect to this mortgage or the debt under the note. No sale of the premises hereby mortgaged and no forbearance on the part of the Mortgagee or extension of the time for the payment of the debt under the note or any other indulgence given by the Mortgagee shall operate to release, discharge, modify, change or affect the liability of the Mortgagor, nor the priority of this mortgage either in whole or part, notice of such forbearance, extension or other indulgence being hereby expressly waived;
- (15) that the Mortgagor shall not:
- (a) create or permit to be created any encumbrance to attach to the premises (except for the payment of real estate taxes and betterment assessments prior to the commencement of interest and penalties thereon),

and if such encumbrance is attached upon the premises without the consent of the Mortgagor, to discharge the same within sixty (60) days of the date of such attachment;

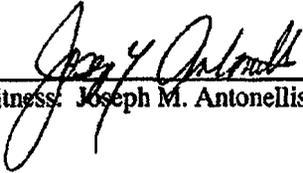
- (b) if the Mortgagor is a corporation, liquidate or dissolve, or permit its liquidation or dissolution; if the Mortgagor is a trustee or trustees, terminate or dissolve, or permit its termination or dissolution; or if the Mortgagor is a partnership, dissolve or wind up its affairs, or permit its liquidation or the winding up of its affairs;
 - (c) file a petition or application under any state or federal bankruptcy, insolvency or debtor's relief law, nor consent to an assignment or composition for the benefit of the Mortgagor's creditors, nor consent to appointment of a receiver for any of the Mortgagor's property.
- (16) if this mortgage is at any time subject or subordinate to another mortgage, the Mortgagor shall not modify, amend, or extend such prior mortgage, or the debt or other obligation secured thereby, without the consent of the Mortgagee; any default under said prior mortgage or the obligations secured thereby shall be a default hereunder, and the Mortgagee shall be entitled but not obligated to cure said default, as provided in Paragraph 13 hereof; and
- (17) any notice, demand or other communication from the Mortgagee to the Mortgagor shall be deemed satisfactorily given upon depositing the same in writing in the United States mail by postage prepaid, registered or certified mail, addressed to the Mortgagor (or any one of them if there be more than one) at the Mortgagor's latest address in the mortgage records maintained by the Mortgagee.

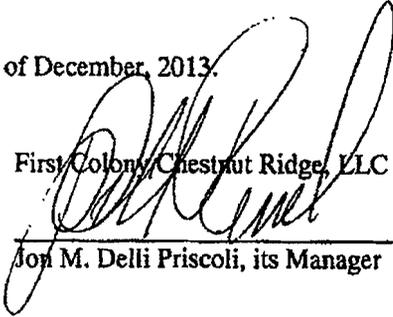
The Mortgagor warrants and represents that it has never (i) occupied or operated a site or vessel on which any hazardous material or oil was stored or transported without compliance with all statutes, regulations, ordinances, directives, and orders of every federal, state, municipal and other governmental authority which has or claims jurisdiction relative thereto, (site, vessel, and hazardous material respectively being defined in Massachusetts General Laws Chapter 21E); (ii) disposed of, transported, or arranged for the transport of any hazardous material or oil without compliance with all such statutes, regulations, ordinances, directives, and orders; (iii) been legally responsible for any release or threat of release of any hazardous material or oil; or (iv) received notification of any potential or known release or threat of release of any hazardous material or oil from any site or vessel occupied or operated by the Mortgagor or of the incurrence of any expense or loss in connection with the assessment, containment, or removal of any release or threat of release of any hazardous material or oil from any such site or vessel.

The Mortgagor warrants and represents that it shall not dispose of any hazardous material or oil on any site or vessel occupied or operated by the Mortgagor, or transport or arrange for the transport of any hazardous material or oil except if such storage or transport is in the ordinary course of the Mortgagor's business and is in compliance with all such statutes, regulations,

used herein means the Mortgagee named herein and any subsequent holder or holders of this mortgage.

Executed as a sealed instrument this 17 day of December, 2013.


Witness: Joseph M. Antonellis

By: 
First Colony Chestnut Ridge, LLC
Jon M. Delli Priscoli, its Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 17 day of December, 2013, before me, the undersigned Notary Public, personally appeared the above-named Jon M. Delli Priscoli, who proved to me through satisfactory evidence of identification, which was a Massachusetts Driver's Licenses, to be the person whose name is signed on the above document and acknowledged to me that he signed it as Manager of First Colony/Chestnut Ridge, LLC voluntarily for its stated purpose.

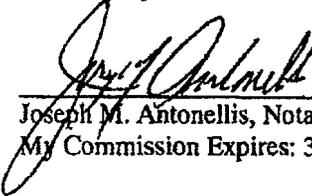

Joseph M. Antonellis, Notary Public
My Commission Expires: 3/16/2018

EXHIBIT 'A'

That certain parcel of land located Crowley Drive in Marlborough, Middlesex County Massachusetts being shown as Lot #1B on that certain plan entitled: "Plan of Land Crowley Drive, Marlborough, MA" Dated February 15, 2006, revised September 27, 2006, October 16, 2006 & October 18, 2006, Scale 1" = 80', Prepared By: Bruce Saluk & Associates, Inc." and recorded with the Middlesex South District Registry of Deeds as Plan Number 40 of 2007 and to which plan reference may be made for a more complete and accurate description of said Lot #1B.

Lot #1B contains 383,306 square feet of land or 8.80 acres, more or less according to the said Plan.

The above described premises are conveyed subject to and together the benefit of all matter set forth on said Plan, and subject to and together with the benefit of all other rights, easements, privileges and covenants of record or otherwise including, but not limited to, the following matters of record:

Grant of Easement dated December 13, 2002 and recorded with said Registry on December 18, 2002 in Book 37414, page 332.

Grant of Easement from the Commonwealth of Massachusetts to Richard Gaucher and filed with the Land Court as Document No. 608510, noted on Certificate of Title No. 156799 with said Registry in Book 914, page 49.

Sewer Easement dated February 13, 2002, recorded with said Registry in Book 34826, page 18.

Terms and provisions of Further Amended City Council Order to Lay Out Crowley Drive as a Private Way, dated January 4, 2007, recorded with said Registry in Book 48821, page 21.

Utility Easement, dated September 25, 2006, recorded with said Registry in Book 48821, page 37.

Terms and provisions of Declaration of Easements, Restrictions and Covenants, dated January 22, 2007, recorded with said Registry in Book 48877, page 27.

Terms and provisions of Use Restriction, dated January 22, 2007, recorded with said Registry in Book 48877, page 36.

Terms and provisions of Emergency Access Road and Stormwater Basin Maintenance Agreement, dated January 22, 2007, recorded with said Registry in Book 48877, page 46.

Matters shown on that certain plan entitled: "Final Layout of Crowley Drive, by the City of Marlborough," dated May 4, 2006 and recorded with said Registry as Plan No. 39 of 2007.

Matters shown on that certain plan entitled: "Easement Plan of Land in Marlborough, MA," dated August 14, 2006 and recorded with said Registry as Plan No. 42 of 2007.

For Title reference see Deed recorded with said Registry in Book 50312, page 99.

The address of the premises is: 100 Crowley Drive, Marlborough, Massachusetts

100 CROWLEY DR



Click to enlarge

MBLU : 16/ 1A/ ///
Location: 100 CROWLEY DR
Owner Name: FIRST COLONY/CHESTNUT RIDGE LLC
Account Number: 00805626

SEARCH FOR SIMILAR SALE PROPERTIES



Parcel Value

Item	Assessed Value
Buildings	4,827,600
Extra Building Features	66,500
Outbuildings	49,500
Land	1,071,500
Total:	6,015,100



Owner of Record

FIRST COLONY/CHESTNUT RIDGE LLC



Ownership History

Owner Name	Book/Page	Sale Date	Sale Price
FIRST COLONY/CHESTNUT RIDGE LLC	50312/ 099	11/5/2007	
METRO PARK CORPORATION	28160/ 444	2/9/1998	



Land Line Valuation

Size	Zone	Assessed Value
6.57 AC	A2	1,071,500



Construction Detail

Item	Value
STYLE	Office
Grade	Good
Stories:	4
Exterior Wall 1	Masonry Veneer
Roof Structure	Flat



Roof Cover	Tar & Gravel
Interior Floor 1	Conc Abv Grade
Heating Fuel	Gas
Heating Type	Hot Air Ducted
AC Coverage	Full
Building Use	Office
Heat/AC	Packaged
Class	Firepr Steel
Plumbing	Average
Partitions	Average



Building Valuation

Item	Value
Living Area	100,683 square feet
Replacement Cost	8,045,921
Year Built	2009
Replacement Cost Less Depreciation	4,827,600



Outbuildings (click here for a list of codes and descriptions)

Code	Description	Units
PAV1	PAVING-ASPHALT	110000 S.F.

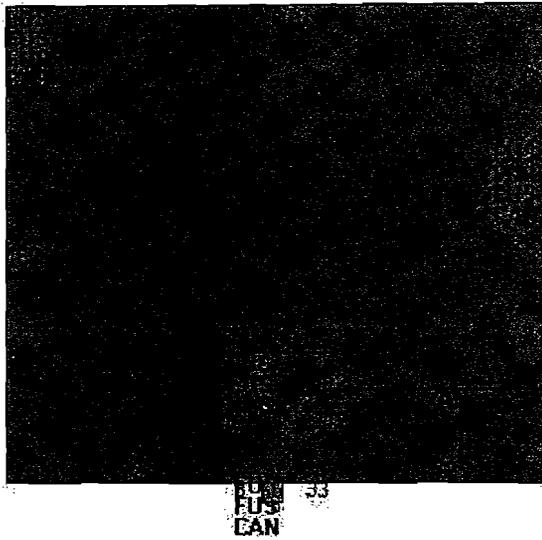


Extra Features (click here for a list of codes and descriptions)

Code	Description	Units
SPR2	WET/CONCEALED	100683 S.F.



Building Sketch (click here for a list of codes and descriptions)



Subarea Summary ([click here for a list of codes and descriptions](#))

Code	Description	Gross Area	Living Area
BAS	First Floor	24981	24981
CAN	Canopy	555	0
FUS	Finished Upper Story	75702	75702
	Total	<u>101238</u>	<u>100683</u>

Online Database for Marlborough, MA Powered by Vision Government Solutions, Inc.

Commercial Deals

MILLION DOLLAR MORTGAGES/SALES JUNE 17 - JUNE 21, 2013

JUNE 21ST

MTG: \$2,500,000 and \$37,500,000 from **People's United Bank**
ADD: 704-714 Boylston St., and 51-69 Exeter St., Boston
BWR: Lenox Hotel LLC, managed by Saunders Hotel Group

MTG: \$8,000,000 from **Berkshire Bank**
ADD: 26-30 Harvard St., Worcester
BWR: Worcester Health Group LLC, managed by Patrick J. Sheehan

MTG: \$8,000,000 from **Berkshire Bank**
ADD: 47 East Main St., West Brookfield
BWR: Sheehan Debt Acquisition, LLC, managed by Patrick J. Sheehan

BUYER: CR 21 LLC, mgd. by National Development
SELLER: Conopco Inc., successor to Good Humor Corp.
PRICE/ADD: \$4,500,000; 490 Old Connecticut Path, Framingham
NOTES: Flex/office property, constructed 1962; building size is 124,650 sf, lot size is 18.3 acres; last sold for \$2,500,000 in Oct. 1993

BUYER: Columbia Property Investors Windham II LLC, managed by Columbia Property Investors
SELLER: Central Street Plaza Georgetown LLC, managed by Louis F. Karger
PRICE/ADD: \$4,400,000; 55-65 Central St., Georgetown
NOTES: Mixed-use property, const. 1985; office and retail space; building size is 21,250 sf, lot size is 2.6 acres; last sold for \$3,320,000 in July 2008

MTG: \$2,325,000 from **MSA Mortgage**
ADD: 10-34 Putnam St., Winthrop
BWR: BCRZ LLC, managed by Robert L. Deeb

BUYER: MetroWest Regional Transit Authority, managed by Ed Carr
SELLER: Southern Middlesex Non-Profit Housing Corp., mgd. by James Cuddy, Executive Director
PRICE/ADD: \$2,300,000; 15 Blandin Ave., Framingham
NOTES: Industrial property, constructed 1950; building size is 19,175 sf, lot size is 4.6 acres; last sold for \$2,230,000 in Aug. 2005

MTG: \$2,100,000 from **Rockland Trust Co.**
ADD: 110-118 Pleasant St., Marlborough
BWR: 110 Pleasant Street LLC, managed by Stanislav Burdan and Alex Yarov

MTG: \$1,380,000 from **Avidia Bank**
ADD: 380 Commercial St., U-1C, Boston; and 77-79 Ferry St., Everett
BWR: Forzi Azzurri LLC, mgd. by Kenneth Sarni



Digital Federal Credit Union has provided more than \$11 million in financing to the owner of Marlborough industrial properties at 19 and 41-53 Brigham St. Managed by Foothills Corp., an entity led by President Jon Mark Delli Priscoli, 19 Brigham St. is a single-story, 67,000-sf building that dates to 1984 and has been owned by Foothills since paying \$1,260,000 in June 1995. That occurred one year after Priscoli's Mountaintop Corp. bought the 42,750-sf property at 41-53 Brigham St. for \$1,012,000. The latter asset that was constructed in 1990 on a 9.9-acre parcel a short distance from Exit 23C of Interstate 495 received a \$4,875,000 loan from DCU, whereas notes of \$2,895,000 and \$3,420,000 are backed by 19 Brigham St.

BUYER: Mane Properties, mgd. by Scott Schneider
SELLER: John E. Fallon
PRICE/ADD: \$1,300,000; 101 Richdale Ave. and 60-62 Walden St., Cambridge
MTG: \$1,040,000 from **Walpole Co-operative Bank**
NOTES: Mixed-use property, const. 1910; multi-family and retail; building size is 5,425 sf, lot size is 4,450 sf; seller inherited property in Oct. 1976

MTG: \$1,200,000 from **Bank of Cape Cod**
ADD: 540 Main St., Units 7, 10, 11, 12, 16 and 18, Barnstable
BWR: 540 Main LLC, mgd. by Charles Doe Jr.

NOTES: Office property; building size is 110,000 sf, lot size is 12.6 acres; last sold for \$23.5 million in Nov. 2005

BUYER: 360 Cedar Hill Holdings-3 LLC, managed by Colony Realty Partners
SELLER: Ipers Cedar Hill Inc., managed by Deutsche Asset and Wealth Management
PRICE/ADD: \$9,750,000; 360 Cedar Hill St., Marlborough
NOTES: Industrial property, constructed 1999; building size is 119,820 sf, lot size is 10 acres; last sold for \$7.1 million in July 2000

JUNE 20TH

BUYER: UMNV 8 Newbury LLC, managed by Novaya Ventures and UrbanMeritage
SELLER: Linda S. Dalby Kennedy and Martha W. de Bourgknecht, personal representatives of the Estate of Pierre L. de Bourgknecht
PRICE/ADD: \$15,150,000; 8 Newbury St., Boston
NOTES: Mixed-use property, const. 1899; office and retail space; building size is 19,000 sf, lot size is 3,125 sf; last sold for \$250,000 in Jan. 1977

MTG: \$4,875,000 from **Digital Federal CU**
ADD: 41-53 Brigham St., Marlborough
BWR: Mountaintop Corp., managed by Jon Mark Delli Priscoli, President and Treasurer
NOTES: Industrial property, const. 1990; building size is 42,750 sf, lot size is 9.9 acres; borrower acquired property for \$1,012,000 in Feb. 1994

BUYER: 111 MPA LLC, mgd. by Marcus Partners
SELLER: RREEF America REIT III-Z1 LLC, mgd. by Deutsche Asset and Wealth Management
PRICE/ADD: \$14,500,000; 111 Speen St., Framingham
MTG: \$10,400,000 from **Cambridge Savings Bank**

MTG: \$2,735,152 from Center City Housing Inc. and \$4,250,000 from **Life Insurance Community Investment Initiative LLC**
ADD: 71 Adams St., 112 and 116 Hancock St., 91-93 Pine St., 130 Tyler St. and 22-24 Winthrop St., Springfield
BWR: Cross Town Corners LLC, managed by Thomas P. Kegelman

MTG: \$2,925,000 and \$2,000,000 from **Digital Federal Credit Union**



Return to:
Law Offices of Steve Ross, P.C.
83 Speen Street
Natick, MA 01760

MORTGAGE AND SECURITY AGREEMENT



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Article I Definitions and Security Interests

1.1 Definitions. The terms used below shall have the meanings there indicated.

Date: June 20, 2013

Lender: Digital Federal Credit Union
a federally chartered credit union
220 Donald Lynch Boulevard
Marlborough, MA 01752

Borrower: Mountaintop Corporation
a Massachusetts corporation
929 Boston Post Road East
Marlborough, MA 01752

Loan Amount: \$4,875,000.00

Loan Agreement: A certain Term Loan Agreement of even date herewith by and between Borrower and Lender.

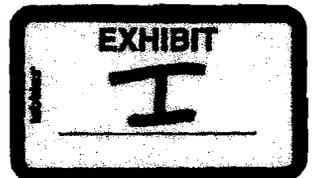
Note: A certain Adjustable Rate Mortgage Note of even date herewith by and between Borrower and Lender in the original principal amount of the Loan Amount.

Loan Documents: The Note, this Mortgage, the Loan Agreement and all other documents executed and delivered by Borrower in connection therewith.

Loan: The obligations evidenced by the Loan Documents.

- Obligations:
- (a) The payment of all amounts due and the performance of all provisions of the Note;
 - (b) The payment and performance of all provisions of all extensions, refinancings and amendments of the Note and all notes issued in substitution therefore;
 - (c) The payment and performance of all provisions under the other Loan Documents;
 - (d) The payment and performance of all other indebtedness, obligations and liabilities of Borrower to Lender existing on the date of this Mortgage or arising hereafter, absolute or contingent, matured or unmatured, secured or unsecured, of Borrower to Lender.

41 - 53 Bingham St, Marlborough MA



**Mortgaged
Property:**

The Premises and the Collateral (as defined below); all Collateral shall to the extent possible be deemed real estate, and if not real estate, then fixtures and a part of the real estate, and the balance shall be personal property.

Premises:

- (a) The fee simple estates in the lands (collectively the "Land") located at 41 Brigham Street, Marlborough, Middlesex County, Massachusetts; and 53 Brigham Street, Marlborough, Middlesex County, Massachusetts, as more particularly described in Exhibit A attached hereto, together with a fee simple interest in all buildings, structures and improvements ("Improvements") now or hereafter thereon, together with all appurtenances thereof and interests therein now or hereafter owned by Borrower, including Borrower's rights in all fixtures now or hereafter attached to, located on or used in connection with the Improvements, and all leases, occupancy agreements, and rents and profits thereof;
- (b) All materials intended for construction, reconstruction, alteration or repair of the Improvements;
- (c) All Borrower's goods, equipment, inventory and articles of personal property now or hereafter attached to, located on or used in connection with the Improvements, including without limitation, furniture, furnishings, appliances, partitions, screens, window treatments, floor coverings, hall and lobby equipment and cleaning and maintenance equipment and supplies;
- (d) All replacements of and additions to all of the property described above as the "Premises";
- (e) The proceeds of any insurance for damage to the property described above as the "Premises"; and
- (f) The proceeds of all judgments, awards of damages and settlements for, or in lieu of, the taking by eminent domain of any part of the property described above as comprising the "Premises".

Collateral:

- (a) All Borrower's accounts, accounts receivable, contract rights, documents, instruments, general intangibles, and rents and profits arising from the Mortgaged Property;
- (b) Borrower's personal property including inventory, supplies, furniture, furnishings, equipment, and building and construction materials, used or useful in the construction, operation or maintenance of the Mortgaged Property;
- (c) Borrower's rights as lessee of all property now or hereafter located on or used in connection with the operation or maintenance of the Premises;
- (d) To the extent assignable, all contracts, agreements, licenses, permits and approvals for the construction, ownership, maintenance and operation of the Mortgaged Property;

- (e) All warranties and guarantees of construction contractors and subcontractors and of suppliers and manufacturers of equipment and material or other property incorporated into the improvements or otherwise constituting part of the Premises;
- (f) The goodwill and trade names of Borrower and any business conducted on the Mortgaged Property by Borrower, and all service marks and logotypes used in connection therewith;
- (g) All books, records, plans and specifications and operating manuals of Borrower relating to the construction, use, operation, occupancy, and maintenance of the Mortgaged Property;
- (h) The proceeds of any insurance for damage to the property described above as "Collateral"; and
- (i) The proceeds of all judgments, awards of damages, and settlements for, or in lieu of, the taking by eminent domain of all or any part of the property described above as "Collateral".

Hazardous Materials: Oil, hazardous materials, hazardous wastes and hazardous substances as defined in the Hazardous Materials Indemnification Agreement by and between Lender and Borrower of even date herewith (the "Hazardous Materials Indemnification Agreement").

Article II. Grant of Mortgage and Security Interest

2.1 Grant of Mortgage

For good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, Borrower GRANTS to Lender, with MORTGAGE COVENANTS the Mortgaged Property as security for the Obligations. Upon payment in full of all amounts due under the Note, Mortgage and other Loan Documents, this Mortgage shall be void and of no effect and thereafter Lender shall deliver to Borrower a discharge of this Mortgage suitable for recording.

2.2 Grant of Security Interest

Borrower grants Lender a first priority security interest in the Collateral under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts. Neither this grant of a security interest nor the filing of a financing statement shall, however, be deemed to impair the intention that to the extent possible all property included in the Mortgaged Property is a part of the real estate. THIS MORTGAGE HEREBY ALSO CONSTITUTES A FINANCING STATEMENT FILED TO PERFECT LENDER'S INTEREST IN THE COLLATERAL UNDER THE UNIFORM COMMERCIAL CODE IN EFFECT IN THE COMMONWEALTH OF MASSACHUSETTS, AS AMENDED OR RECODIFIED FROM TIME TO TIME.

Article III. Representations, Warranties, and Agreements

3.1 General

Borrower hereby represents, warrants and agrees with Lender that:

- (a) Borrower is duly authorized to make and enter into the Loan Documents and to carry out the transactions contemplated therein;
- (b) The Loan Documents have each been duly executed and delivered on behalf of Borrower;
- (c) Borrower will pay and perform all of the Obligations; and
- (d) Borrower shall, at its expense, cause this Mortgage and each amendment thereof and appropriate financing and continuation statements to be recorded and filed in order to establish and preserve the liens and security interests of Lender.

3.2 Title to Property; Other Liens

Borrower represents, warrants and agrees that:

- (a) Borrower owns good clear record and marketable fee simple absolute title to the Mortgaged Property, free of all encumbrances except those specifically described in Exhibit A. Borrower shall not permit or suffer to be created, and shall promptly discharge, any mortgage, lien, attachment, lis pendens, or other encumbrance on the Mortgaged Property or any part thereof or interest therein, other than this Mortgage and those matters enumerated in Exhibit A. Borrower shall promptly give Lender notice of, and, unless Lender requests otherwise, Borrower shall appear in and diligently contest at Borrower's expense, any action or proceeding which purports to affect Borrower's title to the Mortgaged Property, the priority or validity of the lien of this Mortgage, or any rights created or secured by the Loan Documents. Lender shall have the right to intervene or otherwise participate in any such action or proceeding, whether or not a continuing Event of Default exists;
- (b) Borrower will take all reasonable steps to prevent the recording of any materialman's or mechanic's lien relating to the Mortgaged Property or the construction of the Improvements. Borrower will take all steps necessary, including bonding, to discharge or remove the same promptly from the record after Borrower has knowledge thereof; and
- (c) Lender may allow Borrower to contest any notice, lien, attachment, lis pendens or other encumbrances relating to the Mortgaged Property, or any tax, assessment or other governmental levy, provided that Borrower contests the same diligently and in good faith and provides Lender with adequate security, in Lender's reasonable judgment, against the enforcement thereof or loss therefrom during such contest. Borrower acknowledges that certain encumbrances may present such a threat to Lender's security that Lender need not allow Borrower to contest the same or may require Borrower to deliver to Lender cash, or its equivalent, equal in value to the encumbrance.

3.3 Restrictions on Transfers. Except as permitted by the Loan Agreement, Borrower will not without the prior written approval of Lender in each instance:

- (a) Convey, assign, or permit the conveyance or assignment of all or any part of any legal or beneficial interest in the Mortgaged Property, except that Borrower may replace items constituting part of the Collateral where such replacements are at least equal in function, quality and value; or
- (b) Collect funds for the occupancy or use of the Mortgaged Property or any part thereof from

any tenant or other occupant or user in excess of two month's rent and security deposit.

3.4 Leases

Borrower will:

- (a) Not enter into any lease or any agreement of any kind permitting present or future occupancy or use of the Mortgaged Property or any part thereof if to do so would constitute or create a default under any financial covenants set forth in the Loan Agreement without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed;
- (b) Not amend, terminate or take any action which would adversely affect Borrower's rights under, or cause or permit a termination of, any existing or future leases or agreements if to do so would constitute or create a default under any financial covenants set forth in the Loan Agreement without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed;
- (c) Punctually perform all the terms and conditions to be performed by Borrower under each lease and agreement to which the Mortgaged Property is at any time subject, which failure would entitle the tenant to withhold rent or terminate the lease;
- (d) Assign to Lender all leases and agreements and the rents and profits therefrom. Such assignments shall (i) be in form satisfactory to Lender, (ii) be legally sufficient to empower Lender to assign any such leases and agreements to any person acquiring title to all or any part of the Mortgaged Property by foreclosure proceedings or otherwise; (iii) shall provide that after foreclosure or delivery of a deed in lieu of foreclosure, no assignee of any lease or agreement so assigned shall be liable to account to Borrower for rents or profits thereafter accruing; and (iv) permit Lender after any Event of Default to collect rents and profits and to apply the same to the Loan Amount;
- (e) Promptly notify Lender of any material default of which Borrower has knowledge under any such lease or agreement;
- (f) Not permit any occupant of the Mortgaged Property to use any part thereof for the use, generation, treatment, storage, or disposal of Hazardous Materials except in compliance with all applicable laws and regulations.

3.5 Payments

Borrower will pay when due:

- (a) All principal, interest and other charges, if any, due under the Loan Documents;
- (b) Except as permitted in Section 3.2(c) of this Mortgage, all taxes, betterments, assessments and other governmental levies, water and sewer charges, insurance premiums, and other charges, to whomever assessed, whether on the Mortgaged Property or any interest therein, on the Loan Documents, or on any debt secured thereby; and
- (c) All federal, state and municipal taxes of whatever kind and nature which could, if unpaid, result in a lien on the Mortgaged Property or on any interest therein.

3.6 Operation of the Mortgaged Property

Borrower will:

- (a) Make such repairs and replacements and take such other steps as may be reasonably necessary to maintain the Mortgaged Property in at least as good condition as the same now are or hereafter may be put in while this Mortgage is outstanding, deterioration incidental to reasonable wear and tear and eminent domain takings only excepted, it being understood, however, that the foregoing exception for reasonable wear and tear shall not relieve Borrower from the obligation to repair or replace worn out, inoperative, obsolete or otherwise deficient elements of the Mortgaged Property that are reasonably required to maintain tenant occupancy of the Mortgaged Property;
- (b) Observe all federal, state and local laws, ordinances, rules and regulations relating to the Mortgaged Property or the use thereof;
- (c) Not, except as expressly approved by Lender, make or permit any material alteration to, any removal or demolition of, or any strip or waste of, the Mortgaged Property; and
- (d) Not permit the use of the Mortgaged Property for any purpose except uses permitted by law.

3.7 Taxes Account

Borrower will:

- (a) Upon request from Lender, deposit with Lender monthly, on each date on which a payment is due under the Note, or on such other date as Lender may specify, one-twelfth of such amount as Lender estimates will be required to pay all taxes, betterments, assessments and other governmental liens against the Mortgaged Property before the same become due. Lender shall not be deemed a trustee with respect to such deposits and shall not be required to keep said deposits separate from its general accounts or to pay interest thereon to Borrower unless required by law. If at any time Lender determines such Deposits are or will be insufficient to discharge the amounts actually required to pay such taxes, betterments, assessments and liens as may be due, any deficiency shall be promptly deposited by Borrower with Lender. If escrowing taxes pursuant hereto, Borrower shall transmit to Lender all bills for such taxes, betterments, assessments and liens as soon as received. Should the amount deposited with Lender by Borrower in any year exceed the amount required, such excess shall be applied to escrow payments for the succeeding year; and
- (b) If at any time Lender does not require the escrow of tax payments, furnish Lender with the receipted real estate tax and assessments bills for the Mortgaged Property within five (5) days after payment of the same on a timely basis.
- (c) After prior written notice to Lender, Borrower may at its own expense (as between Lender and Borrower), contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount, validity or application in whole or in part of any of the taxes, provided neither the Mortgaged Property nor any part thereof will be in danger of being sold, forfeited, terminated, cancelled or lost and Borrower shall have deposited with Lender adequate reserve for payment of such taxes, unless Borrower has paid all of such taxes.

3.8 Notices

Borrower will deliver to Lender promptly upon receipt of the same, copies of all notices, certificates and documents received by Borrower which materially affect the Mortgaged Property or its use or which make a claim or assertion which if true would cause Borrower to be in default under the Loan Documents.

3.9 Security Agreement Representations

The Collateral shall be used for business purposes and shall be kept at the Premises. When requested by Lender in writing, Borrower will:

- (a) Provide Lender with an inventory of the Collateral in form reasonably satisfactory to Lender;
- (b) Execute and deliver to Lender, in form appropriate for recording and filing, a first security agreement and financing statements relating to the Collateral. In connection with the grant of security interest made hereby, Borrower hereby authorizes Lender to file or cause to be filed one or more financing statements, amendments to financing statements and/or in lieu financing statements with any filing office for the purpose of perfecting or continuing the perfection of the security interest in the Collateral.
- (c) Provide to Lender such other assurances as may be required by Lender to establish Lender's first security interest in the Collateral.

3.10 Borrower's Obligation to Report Defaults

Borrower will promptly notify Lender upon becoming aware of any event which would constitute an Event of Default hereunder, or which would constitute an Event of Default hereunder if it were to continue after any notice required.

Article IV. Insurance

4.1 Coverage

Borrower shall obtain and keep in force insurance as to the Mortgaged Property at all times during the term of the Loan as required under the Loan Agreement.

4.2 Co-Insurance Provision

The terms of all insurance policies shall be such that no co-insurance provisions apply. If, however, a policy does contain a co-insurance provision, Borrower shall insure the Mortgaged Property in an amount sufficient to prevent the application of the co-insurance provisions.

4.3 Insurers

All insurance shall be written by insurers qualified to do business in Massachusetts having a general policy rating of "A" or better and a financial class of VI or better given by A.M. Best Company, Inc. All Evidence of insurance shall be deposited with Lender. Borrower will update Lender on any insurance renewals.

4.4 Expiration of Insurance

Not fewer than fifteen (15) days prior to the expiration dates of the expiring policies, Borrower shall deliver to Lender evidence of insurance replacing the expiring policies and bearing notations evidencing the payment of premiums or accompanied by other evidence of such payment satisfactory to Lender.

4.5 Policy Provisions

All insurance shall be in form acceptable to Lender where applicable, shall provide that any proceeds shall be first payable to Lender, as its interests may appear, pursuant to a non-contributory standard mortgagee endorsement, and shall provide that twenty (20) days' written notice must be given to Lender before any such policy can be canceled, modified or renewal thereof refused. Borrower shall perform all the conditions of all insurance policies covering the Mortgaged Property and, in case of any loss or damage, Borrower will give immediate notice to Lender, who may make proof of loss or claim. Each insurance company is hereby authorized and directed to make payment for such loss directly to Lender instead of to Borrower in case of Borrower's physical damage insurance.

4.6 Application of Proceeds

The insurance proceeds for casualty shall be adjusted by and paid to Lender. Subject to the terms of the Loan Agreement, after deducting all costs and expenses, including reasonable attorneys' fees incurred by Lender in connection therewith, Lender shall release such portion of the proceeds to Borrower as is necessary to restore the Mortgaged Property to its prior condition insofar as is practicable, upon such terms and conditions as Lender deems appropriate. Lender shall apply the balance thereof, if any, to the Loan Amount. If any insurer of the Mortgaged Property denies liability, Borrower shall not be relieved of its obligation to restore the Mortgaged Property. If at any time Lender determines that the amount of proceeds is insufficient to complete restoration, Borrower shall deposit the amount of such deficiency with Lender within thirty (30) days after notice from Lender. All plans and specifications for the restoration shall be approved by Lender prior to commencement of the restoration. Except to the extent insurance proceeds are actually retained by Lender and applied to the Loan Amount, nothing herein shall be deemed to relieve Borrower from the obligation to restore all damage and destruction to the Mortgaged Property, regardless of whether or not sufficient proceeds are available. No such retention and application shall be deemed a cure or waiver of any Event of Default under this Mortgage.

Article V. Eminent Domain

5.1 Taking

In case of any condemnation for public use of, or any damage by reason of the action of any governmental entity or authority to, all or any part of the Mortgaged Property (a "Taking"), or the commencement of any proceedings or negotiations which might result in a Taking or a settlement in lieu thereof, Borrower shall promptly give written notice thereof to Lender, describing the nature and extent of the Taking or the nature of such proceedings or negotiations. Lender may, at its option, appear in any such proceedings or negotiations, and Borrower shall promptly give Lender copies of all notices, pleadings, determinations and other papers. Borrower shall in good faith and with due diligence file and prosecute Borrower's claim for any award or payment on account of any Taking. Borrower shall not settle any such claim without Lender's prior written consent.

5.2 Application of Award

Except as permitted in the Loan Agreement, Borrower hereby assigns to Lender all of Borrower's rights in any award received in connection with a Taking or any settlement received in lieu thereof and authorizes such awards and settlements to be paid directly to Lender. If Borrower collects any such award, Borrower shall promptly pay the same to Lender. Any such award, after deducting therefrom all costs and expenses, including reasonable attorneys' fees incurred by Lender in connection therewith, shall be applied as follows:

- (a) In the case of a partial Taking, if no Event of Default exists and Lender reasonably determines that the Mortgaged Property can be economically restored and operated in accordance with the Loan Documents, Lender shall release to Borrower on terms and conditions satisfactory to Lender so much of such award, reduced as provided above, as may be necessary to restore the Mortgaged Property, and the balance, if any, shall be applied to the Loan Amount; and
- (b) In the case of a complete Taking, or in the case of a partial taking, if an Event of Default exists or if Lender reasonably determines that the Mortgaged Property cannot be economically restored and operated in accordance with the Loan Documents, Lender may, at its option, apply such award, reduced as provided above, to the reduction of balance to be paid to Borrower.

Article VI. Defaults and Remedies

6.1 Events of Default

The occurrence of any Event of Default under the Loan Agreement shall constitute an "Event of Default" under this Mortgage after the expiration of any applicable notice or cure period.

6.2 Remedies

After an Event of Default, Lender may, at its option and without notice:

- (a) Exercise any of Lender's remedies provided in any of the Loan Documents;
- (b) Declare the Loan Amount immediately due and payable;
- (c) Apply to the Loan Amount any deposits or other sums credited by or due from Lender to Borrower;
- (d) Take possession of the Mortgaged Property and operate the Mortgaged Property as a mortgagee in possession with all the same powers as could be exercised by a receiver (the availability of this remedy shall not impair the Lender's remedies under any other Loan Document such as the Collateral Assignment of Leases and Rents);
- (e) Make any payments required to be made by Borrower under the Loan Documents. The amount of all such payments shall be immediately due and payable by Borrower, and until paid, shall be added to the Loan Amount and secured by the Loan Documents with the same priority as the face amount of the Mortgage. Such payments may include, but are not limited to, payments for taxes and other governmental levies, water rates, insurance premiums, maintenance, repairs or improvements of the Mortgaged Property;

- (f) Perform any and all obligations of Borrower under the Loan Documents without waiving any rights or releasing Borrower from any obligations thereunder;
- (g) Exercise any of the rights and remedies of a secured party under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts, including but not limited to:
 - (i) Either personally or by means of a receiver, take possession of all or any of the Collateral and exclude therefrom Borrower, and all others claiming under Borrower, and thereafter store, use, operate, manage, make repairs, replacements, alterations and additions to and exercise all rights and powers of Borrower with respect to the Collateral or any part thereof;
 - (ii) Without notice to or demand upon Borrower, make such payments and do such acts as Lender may deem necessary to protect its security interest in the Collateral, including without limitation, paying, contesting or compromising any encumbrance or lien which is prior to the security interest granted hereunder, and in exercising any such powers to pay all expenses incurred in connection therewith;
 - (iii) Require Borrower to assemble the Collateral or any portion thereof, at a place designated by Lender and reasonably convenient to both parties, and promptly to deliver possession of such Collateral to Lender or an agent designated by Lender. Lender and its agents shall have the right to enter upon any of Borrower's property to exercise Lender's rights hereunder;
 - (iv) Sell, lease or otherwise dispose of the Collateral at private or public sale, with or without having the Collateral at the place of sale, and upon such terms and in such manner as Lender may determine. Lender may be a purchaser at such sale; and
 - (v) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender shall give Borrower at least five (5) days' prior written notice of the time and place of any private or public sale of the Collateral or other intended disposition thereof;
- (h) Exercise the STATUTORY POWER OF SALE.
- (i) Take such other actions or proceedings as Lender deems necessary or advisable to protect its interest in the Mortgaged Property.

6.3 Statutory Power of Sale

This Mortgage is on the STATUTORY CONDITION and upon the further condition that all agreements of the Borrower contained in the Loan Documents be fully performed for any breach of which Lender shall have the STATUTORY POWER OF SALE. In the event of the exercise of the STATUTORY POWER OF SALE, Lender may foreclose on and sell all or any part of the Mortgaged Property, and thereafter Lender shall continue to have the STATUTORY POWER OF SALE so long as any portion of the Mortgaged Property remains subject to this Mortgage.

6.4 No Waiver or Release

No delay or omission on the part of Lender in exercising any right hereunder or under the Loan

Documents shall operate as a waiver of such right or of any other right, and a waiver of any such right on any one occasion shall not be construed as a bar to or a waiver of any such right on any other occasion. No sale of any of the Mortgaged Property, no forbearance on the part of Lender, no release or partial release of any of the Mortgaged Property, and no extension, whether oral or in writing, of the time for the payment of the whole or any part of the Loan Amount or any other indulgence given by Lender to Borrower or any other person or entity, shall operate to release or in any manner affect the lien of the Mortgage or the liability of Borrower, notice of any such extensions or indulgences being hereby waived by Borrower.

6.5 Cumulative Rights and Remedies

Lender shall have the right to exercise any and all remedies under the Loan Documents until all Events of Default have been cured, and such remedies may be exercised individually, sequentially or in concert, all such remedies being cumulative, the exercise of one not being deemed a waiver of any of the others or a cure of any default.

6.6 Borrower's Waiver of Certain Rights

Borrower waives any rights it may have to receive notice of any action or proceeding to enforce Lender's rights under any Loan Document other than the notices herein provided for. In the event of foreclosure, Borrower will not claim the benefit of any law now or hereafter in force providing for any appraisal, stay, extension or redemption. Borrower waives all rights of redemption, appraisal, stay of execution, notice of acceleration and marshaling.

6.7 Effect of Exercise of Rights

Any action taken or sums paid, and any costs or expenses incurred by Lender, including attorneys' fees, pursuant to Lender's exercise of its rights, shall as between the parties be deemed valid, so that in no event shall the necessity or validity of any such action or payments, costs or expenses be disputed.

6.8 Change in Law

If any law as hereafter enacted by the Commonwealth of Massachusetts changes in any way the laws applicable to mortgages or the taxation thereof or the manner of collection of any such taxes, so as to affect adversely and materially any rights of Lender or any provisions hereof, the Loan Amount hereby secured shall, at the election of the Lender, become due and payable on demand; provided, however, that if the Borrower can lawfully pay any amount or promptly perform any obligation, and forthwith pays or performs the same, so that any such change in law does not adversely and materially affect the rights of the Lender, the Loan Amount shall not be accelerated.

Article VII. General

7.1 Lender's Expenses

To the extent permitted by law, if Lender retains an attorney to collect any sums due under this Mortgage, enforce any of the provisions hereof, or otherwise protect Lender's interests, Borrower agrees to pay Lender, on demand, all costs and expenses reasonably incurred in connection therewith, including all court costs and reasonable attorney's fees, whether or not suit is brought or prosecuted to completion, together with interest thereon at the rate applicable under the Note to amounts past due.

7.2 Indemnification

Borrower agrees to hold harmless and indemnify Lender from all liability, loss, cost, damage, and expense from any claim for damage to property or death or injury to persons which may arise in connection with the construction, use, or occupancy of the Mortgaged Property, not otherwise covered by insurance, including any liability, loss, cost, damage or expense arising from a violation of the Superfund and Hazardous Waste Laws except as such liability shall be the result of the gross negligence, bad faith or willful misconduct of Lender.

7.3 Joint and Several Liability

If more than one party executes this Mortgage the term Borrower shall mean all of them, and each of them shall be jointly and severally liable hereunder.

7.4 Captions

Captions are used for convenience of reference only and are not to be construed as part of the terms of this Mortgage.

7.5 Severability

The invalidity of any provisions of this Mortgage shall in no way affect the validity of any other provision.

7.6 Singular and Plural

Where required by the context, the singular shall include the plural and the plural shall mean the singular.

7.7 Gender

The masculine, feminine and neuter forms shall be interpreted interchangeably wherever the text requires.

7.8 Successors and Assigns

This Mortgage is binding upon and shall inure to the benefit of the parties hereto and their heirs, successors, personal representatives, and assigns.

7.9 Notices

Any notice, request, demand or other communication required or permitted hereunder shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail, postage prepaid or telegram sent to the intended addressee at the applicable address set forth on Page 1 hereof or to such different address as either Borrower or Lender shall have designated by written notice to the other sent in accordance herewith. Such notices shall be deemed given when received or, if earlier, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, four (4) days after deposit therein.

7.10 Governing Law

The provisions hereof shall be construed in accordance with the laws of the Commonwealth of

Massachusetts.

7.11 Jurisdiction

Borrower submits to personal jurisdiction in the Commonwealth of Massachusetts and waives any and all personal rights to object to such jurisdiction. Borrower agrees that service of process may be made and personal jurisdiction obtained by serving Borrower at the address stated on the first page hereof.

7.12 Changes in Writing

This Mortgage may not be changed, waived, or terminated except in a writing signed by the party against whom enforcement of the change, waiver, or termination is sought.

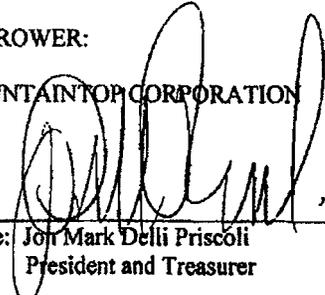
7.13 Other Representations and Warranties

All statements contained in any loan application, certificate or other instrument delivered by Borrower to Lender or Lender's representatives in connection with the Loan secured by this Mortgage shall constitute representations and warranties made by Borrower hereunder.

EXECUTED under seal as of the date first above written.

BORROWER:

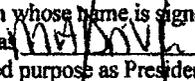
MOUNTAIN TOP CORPORATION

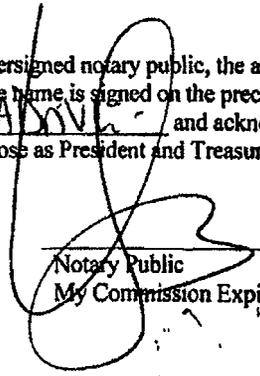
By: 
Name: Jon Mark Delli Priscoli
Title: President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

June 20, 2013

Then personally appeared, before me, the undersigned notary public, the above-named Jon Mark Delli Priscoli, and proved to me to be the person whose name is signed on the preceding document, through satisfactory evidence of identification, which was  and acknowledged that he signed the foregoing instrument voluntarily for its stated purpose as President and Treasurer of Mountaintop Corporation, before me.


Notary Public
My Commission Expires:

MATTHEW MYERS
Notary Public
Commonwealth of Massachusetts
Commission Expires
November 5, 2015

Exhibit "A"

The land with the buildings and improvements thereon located at 41 and 53 Brigham Street, Marlborough, Middlesex County, Massachusetts, being shown a Lot 2 on a plan entitled, "Plan of Land in Marlborough, Mass." Owned by: Assabet Realty Trust, Book 15376, Page 539-541, Scale: 1" = 40', date: June 13, 1984, by Highland Land Surveyors, Inc. 59 Maple Street, Marlboro, Mass., recorded with the Middlesex South District Registry of Deeds as Plan No. 1622 of 1985, in Book 16604, Page 454, and to which plan reference may be had for a more complete and accurate description of Lot 2.

Lot 2 contains 431,433 square feet or 9.904 acres, more or less, however bounded and described, according to said plan.

Said premises are conveyed subject to and together with the benefit of rights as set forth in that certain Driveway and Utility Easement dated November 19, 1984, recorded in Book 15886, Page 383, with said Deeds as ratified and confirmed and amended by Easement Agreement dated January 21, 1985, recorded in Book 16000, Page 210, and further confirmed by a release deed dated June 7, 1985, recorded with said Deeds as Instrument No. 417 of June 8, 1995, in Book, Page.

Said premises are conveyed together with the benefit of a Grant of Easement from Foothills Corporation to Mountaintop Corporation dated June 29, 1998, recorded with said Deeds in Book 28776, Page 276.

Property Address: 41 and 53 Brigham Street, Marlborough, Massachusetts

For title reference see deed recorded in Book 24282, Page 452.

Return to:
Law Offices of Steve Ross, P.C.
83 Speen Street
Natick, MA 01760

COLLATERAL ASSIGNMENT OF LEASES AND RENTS

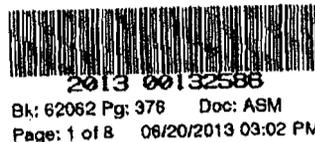
AB

Definitions

The terms used below shall have the meanings there indicated. All capitalized terms used herein and not otherwise defined herein shall have the meanings as set forth in the Loan Agreement and Mortgage.

Date: June 20, 2013

Lender: Digital Federal Credit Union
a federally chartered credit union
220 Donald Lynch Boulevard
Marlborough, MA 01752



Borrower: Mountaintop Corporation
a Massachusetts corporation
929 Boston Post Road East
Marlborough, MA 01752

Loan Amount: \$4,875,000.00

Mortgaged Property: The Mortgaged Property as defined in the Mortgage and Security Agreement by Borrower to the Lender of even date and recorded herewith (the "Mortgage") covering properties located at 41 Brigham Street, Marlborough, Middlesex County, Massachusetts; and 53 Brigham Street, Marlborough, Middlesex County, Massachusetts, as more particularly described in the Mortgage securing the Loan Amount.

Loan Agreement: A certain Term Loan Agreement of even date herewith by and between Borrower and Lender.

Note: A certain Adjustable Rate Mortgage Note of even date herewith by and between Borrower and Lender in the original principal amount of the Loan Amount.

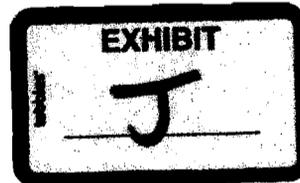
Assigned Leases: All of Borrower's right, title and interest in any to and all leases or occupancy agreements of whatever name or description and all extensions and renewals thereof heretofore or hereafter entered into with respect to the Mortgaged Property or any part thereof.

Assigned Rents: All of Borrower's right, title and interest in and to the rents, issues and profits from the Assigned Leases, collected or to be collected, arising or issuing out of the Mortgaged Property or any part thereof and all other rents, issues, and profits from the Mortgaged Property.

Exhibit A: The leases, if any, which Borrower warrants are in effect on the date hereof.

I. Assignment and Grant of Security Interest

41 - 53 Brigham St, Marlborough



Borrower, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, transfers and assigns to Lender all of Borrower's right, title and interest in and to the Assigned Leases and the Assigned Rents, it being intended that this is a present assignment and not a conditional assignment to secure all of Borrower's obligations to Lender, now existing or hereafter arising, including, but not limited to, Borrower's obligations to Lender under the Loan Documents. Upon payment in full of all amounts due under the Loan Documents, this Assignment shall be void and of no effect.

2. Borrower's Agreements and Warranties

Borrower warrants and agrees:

- (a) that Borrower is the sole owner of the entire landlord's interest in the Assigned Leases and the Assigned Rents and that Borrower has not sold, assigned, mortgaged or pledged the Assigned Leases or Assigned Rents;
- (b) that, to the best of Borrower's knowledge, the Assigned Leases are valid and enforceable and have not been amended in any manner whatsoever except as herein set forth;
- (c) that, to the best of Borrower's knowledge, the tenants of the Assigned Leases are not in default under any of the provisions thereof;
- (d) that no rent reserved in the Assigned Leases has been assigned or anticipated and that no rent for any period subsequent to the date of this Assignment has been collected in advance of the time when the same became due under the Assigned Leases;
- (e) to observe and perform all the obligations imposed upon the landlord under the Assigned Leases and not to do or permit to be done anything to impair the enforceability of the Assigned Leases;
- (f) not to collect any of the Assigned Rents in advance of the time when the same shall become due (other than any security deposits);
- (g) not to subordinate the Assigned Leases to any mortgage or other encumbrance or permit or agree to such subordination without Lender's prior written consent;
- (h) not to amend the Assigned Leases or give any consent or exercise any option required or permitted by the Assigned Leases without Lender's prior written consent;
- (i) not to terminate the Assigned Leases nor accept a surrender thereof nor convey or transfer any interest therein or in the Mortgaged Property so as to effect directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, the landlords and tenants thereunder;
- (j) not to convey, transfer, or assign the Assigned Leases or any interest therein without Lender's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed;
- (k) not to allow, permit, or suffer any subletting under any of the Assigned Leases without Lender's prior written consent;

- (l) not to amend the terms of any guaranty of the Assigned Leases nor terminate any guaranty of the Assigned Leases without the prior written consent of Lender;
- (m) to assign and transfer to Lender any and all subsequent leases, rents, issues and profits of all or any part of the Mortgaged Property and to execute and deliver at the request of Lender all such further assurances and assignments as Lender shall from time to time require;
- (n) to enforce all provisions of the Assigned Leases and cause the tenants thereof to comply with said provisions; and
- (o) Borrower shall not permit or suffer any occupant of the Mortgaged Property to use all or any part thereof for the use, generation, treatment, storage, or disposal of Hazardous Materials without the prior written consent of Lender, and then only to the extent that the Hazardous Materials are licensed and approved in accordance with all applicable laws and regulations and are in compliance with the terms of Lender's written approval.

At the option of Lender, all future leases of the Mortgaged Property shall require tenants to:

- (p) provide Borrower and Lender with copies of all notices, including, without limitation, all notices of violations and notices of responsibility or demand for action received from any federal, state or local authority or official in connection with Hazardous Materials in or on the leased premises or Mortgaged Property; and
- (q) indemnify and hold Borrower and Lender and their heirs, successors and assigns harmless from and against all loss, cost, liability, damage, and expense including attorneys' fees and the costs of litigation, arising from any Hazardous Materials in or on the leased premises or Mortgaged Property due to any act or omission of tenant.

3. Revocable License to Collect Rents

So long as no Event of Default exists under the Loan Documents, or in the performance of any obligations contained in the Assigned Leases, Borrower shall have a revocable license to collect the Assigned Rents.

4. Default by Borrower

The occurrence of any one or more of the following events shall constitute an "Event of Default":

- (a) default by Borrower under any of the provisions of this Assignment, which default continues for more than fifteen (15) days; and
- (b) an Event of Default under any other Loan Document.

5. Lender's Remedies

On the occurrence of an Event of Default, Lender may at any time thereafter exercise any or all of the following remedies without notice and without regard to the adequacy of the security for the obligations secured hereby:

- (a) either in person or by agent, have a receiver appointed by a court;

- (b) revoke Borrower's license to collect the Assigned Rents and in its own name, demand, sue for, or otherwise collect and receive all Assigned Rents, including those past due and unpaid, without taking possession of the Mortgaged Property, any statute, law, custom, or use to the contrary notwithstanding, and apply the Assigned Rents to the payment of the indebtedness secured hereby and by the Note, Mortgage and other Loan Documents, together with all costs and attorneys' fees, and return the balance, if any, to Borrower;
- (c) either in person or by agent, with or without bringing any action or proceeding, take possession of the Mortgaged Property, and have, hold, manage, lease and operate the same for such period of time and on such terms as Lender in its sole discretion may deem appropriate;
- (d) make from time to time all alterations, renovations, repairs, or replacements to the Mortgaged Property as may seem proper to Lender;
- (e) terminate any or all of the Assigned Leases and relet the Mortgaged Property on such terms and conditions as Lender deems appropriate except as such Assigned Leases are affected by executed Subordination, Non-Disturbance and Attornment Agreements executed with Lender;
- (f) assign, mortgage or pledge the Assigned Leases and assigned Rents;
- (g) apply the Assigned Rents to the payment of: (i) all expenses of managing the Mortgaged Property, including, the salaries of a managing agent and such other employees as Lender may deem necessary or desirable, (ii) all expenses of operating and maintaining the Mortgaged Property, including, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which Lender may deem necessary or desirable, and (iii) the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Mortgaged Property and reletting the same including broker's fees; and (iv) the indebtedness secured hereby and by the Note, Mortgage and other Loan Documents, together with all costs and attorneys' fees, in such order of priority as Lender in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding.

Lender may exercise any or all of its remedies hereunder prior to, simultaneously with, or subsequent to the exercise of any rights under the other Loan Documents.

6. No Liability of Lender

Borrower agrees that:

- (a) Lender shall not be liable for any loss sustained by Borrower from Lender's failure to let the Mortgaged Property after default or from any other act or omission of Lender in managing the Mortgaged Property after default unless such loss is caused by the willful misconduct and bad faith of Lender;
- (b) Lender shall not be liable for any waste committed on the Mortgaged Property by the tenants or any other parties, or for any dangerous or defective condition of the Mortgaged Property or for any damage to property or injury or death to any person resulting from the

management, upkeep, repair or control of said Mortgaged Property unless such loss is caused by the willful misconduct or gross negligence of Lender; and

- (c) Prior to Lender actually entering and taking possession of the Mortgaged Property, this Assignment shall not place responsibility for the control, care, management or repair of the property upon Lender nor obligate Lender to comply with any of the provisions of the Assigned Leases.

7. Indemnification

Borrower shall indemnify Lender against and hold Lender harmless from, any and all liability, loss, cost, damage or expense, including reasonable attorney's fees, which may be incurred under the Assigned Leases or under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against 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 Assigned Leases and Borrower shall reimburse Lender therefor immediately upon demand and upon the failure of Borrower so to do Lender may, at its option, declare all sums secured hereby and by the Note, Mortgage and other Loan Documents immediately due and payable.

8. Rent Payments to Lender

Borrower directs the tenants named in the Assigned Leases, upon receipt from Lender of written notice that a default exists, to pay to Lender all Assigned Rents and to continue to do so until otherwise notified by Lender. No person making a payment to Lender shall have any obligation to inquire into the actual existence of an Event of Default claimed by Lender or to the application of the Assigned Rents. The certificate, letter, or statement of any officer, agent or attorney of Lender that any part of the indebtedness remains unpaid shall be conclusive evidence of the validity, effectiveness and containing force of this Assignment and any person may rely thereon.

9. Other Security

Lender may take or release other security for the performance of the obligations of Borrower under the Note, Mortgage and the other Loan Documents, may release any party primarily or secondarily liable therefor, and may apply any other security held by it to the satisfaction thereof without prejudice to any of its rights under this Assignment.

10. Lender's Rights of Assignment; Rights of Assignees

Lender may assign to any subsequent holder of the Note or Mortgage, or to any person acquiring title to the Mortgaged Property, all of the Lender's right, title and interest in any Assigned Leases and Assigned Rents. No assignee shall have any liability for any obligation which accrued under the Assigned Leases prior to the assignment to said assignee nor shall such assignee have any obligation to account to Borrower for any Assigned Rents which accrued prior to such assignment. After Borrower's right, title and interest in the Mortgaged Property has been foreclosed or otherwise terminated, no assignee of Borrower's interest in the Assigned Leases and Assigned Rents shall be liable to account to Borrower for any rents, issues or profits thereafter accruing.

11. No Waiver By Lender

Nothing contained in this Assignment and no act done or omitted by Lender pursuant to this Assignment nor the collection of any Assigned Rents shall be deemed to be a waiver by Lender of its

rights and remedies under the Note, Mortgage, or other Loan Documents nor a waiver of any default by Borrower thereunder.

12. Mortgage Governs

In case of any conflict between this Assignment and the Mortgage, the Mortgage shall govern.

13. Joint and Several Liability

If more than one party executes this Assignment, the term Borrower shall mean all of them, and each of them shall be jointly and severally liable hereunder.

14. Captions

Captions are used for convenience of reference only and are not to be construed as part of the terms of this Assignment.

15. Severability

The invalidity of any provision of this Assignment shall in no way affect the validity of any other provision.

16. Singular and Plural

Where required by the context the singular shall include the plural and the plural shall mean the singular.

17. Gender

The masculine, feminine and neuter forms shall be interpreted interchangeably whenever the context requires.

18. Successors and Assigns

This agreement is binding upon and shall insure to the benefit of the parties hereto and their heirs, successors, personal representatives, and assigns.

19. Notices

Any notice, request, demand or other communication required or permitted hereunder shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail, postage prepaid or telegram sent to the intended addressee at the applicable address set forth on Page 1 hereof or to such different address as either Borrower or Lender shall have designated by written notice to the other sent in accordance herewith. Such notices shall be deemed given when received or, if earlier, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, two days after deposit therein.

20. Governing Law

This Assignment shall be interpreted in accordance with and governed by the law of the Commonwealth of Massachusetts.

21. Jurisdiction

Borrower submits to personal jurisdiction in the Commonwealth of Massachusetts and waives any and all personal rights to object to such jurisdiction. Borrower agrees service of process may be made and personal jurisdiction obtained by serving Borrower at the address stated on the first page hereof.

22. Changes in Writing

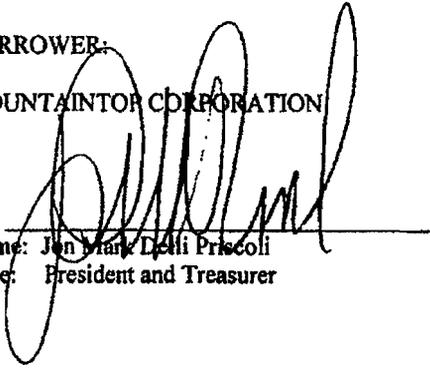
This Assignment may not be changed, waived, or terminated except in a writing signed by the party against whom enforcement of the change, waiver, or termination is sought.

23. Cost and Attorney's Fees

To the extent permitted by law, if Lender retains an attorney to collect any sums due under this agreement, enforce any of the provisions hereof, or otherwise protect Lender's interests, Borrower agrees to pay Lender, on demand, all costs and expenses in connection therewith including all court costs and reasonable attorney's fees whether or not suit is brought or prosecuted to completion.

EXECUTED under seal as of the date first above written.

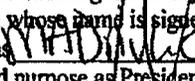
BORROWER:
MOUNTAINTOP CORPORATION

By: 
Name: Jon Mark Delli Priscoli
Title: President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

June 20, 2013

Then personally appeared, before me, the undersigned notary public, the above-named Jon Mark Delli Priscoli, and proved to me to be the person whose name is signed on the preceding document, through satisfactory evidence of identification, which was  and acknowledged that he signed the foregoing instrument voluntarily for its stated purpose as President and Treasurer of Mountaintop Corporation, before me.

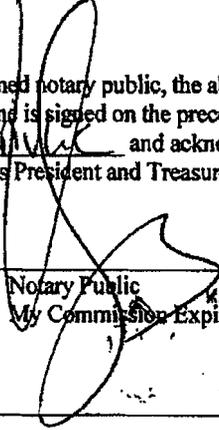
Notary Public
My Commission Expires 
KAREN M. MYERS
Notary Public
Commonwealth of Massachusetts
My Commission Expires
November 5, 2015

Exhibit "A"

The land with the buildings and improvements thereon located at 41 and 53 Brigham Street, Marlborough, Middlesex County, Massachusetts, being shown a Lot 2 on a plan entitled, "Plan of Land in Marlborough, Mass." Owned by: Assabet Realty Trust, Book 15376, Page 539-541, Scale: 1" = 40', date: June 13, 1984, by Highland Land Surveyors, Inc. 59 Maple Street, Marlboro, Mass., recorded with the Middlesex South District Registry of Deeds as Plan No. 1622 of 1985, in Book 16604, Page 454, and to which plan reference may be had for a more complete and accurate description of Lot 2.

Lot 2 contains 431,433 square feet or 9.904 acres, more or less, however bounded and described, according to said plan.

Said premises are conveyed subject to and together with the benefit of rights as set forth in that certain Driveway and Utility Easement dated November 19, 1984, recorded in Book 15886, Page 383, with said Deeds as ratified and confirmed and amended by Easement Agreement dated January 21, 1985, recorded in Book 16000, Page 210, and further confirmed by a release deed dated June 7, 1985, recorded with said Deeds as Instrument No. 417 of June 8, 1995, in Book, Page.

Said premises are conveyed together with the benefit of a Grant of Easement from Foothills Corporation to Mountaintop Corporation dated June 29, 1998, recorded with said Deeds in Book 28776, Page 276.

Property Address: 41 and 53 Brigham Street, Marlborough, Massachusetts

For title reference see deed recorded in Book 24282, Page 452.

M

Return to:
Law Offices of Steve Ross, P.C.
83 Speen Street
Natick, MA 01760

MORTGAGE AND SECURITY AGREEMENT



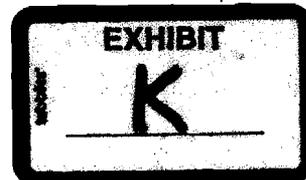
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Article I. Definitions and Security Interests

1.1 Definitions. The terms used below shall have the meanings there indicated.

- Date: June 20, 2013
- Lender: Digital Federal Credit Union
a federally chartered credit union
220 Donald Lynch Boulevard
Marlborough, MA 01752
- Borrower: Foothills Corporation
a Massachusetts corporation
929 Boston Post Road East
Marlborough, MA 01752
- Loan Amount: \$3,420,000.00
- Loan Agreement: A certain Term Loan Agreement of even date herewith by and between Borrower and Lender.
- Note: A certain Adjustable Rate Mortgage Note of even date herewith by and between Borrower and Lender in the original principal amount of the Loan Amount.
- Loan Documents: The Note, this Mortgage, the Loan Agreement and all other documents executed and delivered by Borrower in connection therewith.
- Loan: The obligations evidenced by the Loan Documents.
- Obligations:
 - (a) The payment of all amounts due and the performance of all provisions of the Note;
 - (b) The payment and performance of all provisions of all extensions, refinancings and amendments of the Note and all notes issued in substitution therefore;
 - (c) The payment and performance of all provisions under the other Loan Documents;
 - (d) The payment and performance of all other indebtedness, obligations and liabilities of Borrower to Lender existing on the date of this Mortgage or arising hereafter, absolute or contingent, matured or unmatured, secured or unsecured, of Borrower to Lender.

19 Brigham St, Marlborough MA



**Mortgaged
Property:**

The Premises and the Collateral (as defined below); all Collateral shall to the extent possible be deemed real estate, and if not real estate, then fixtures and a part of the real estate, and the balance shall be personal property.

Premises:

- (a) The fee simple estate in the land (the "Land") located at 19 Brigham Street, Marlborough, Middlesex County, as more particularly described in Exhibit A attached hereto, together with a fee simple interest in all buildings, structures and improvements ("Improvements") now or hereafter thereon, together with all appurtenances thereof and interests therein now or hereafter owned by Borrower, including Borrower's rights in all fixtures now or hereafter attached to, located on or used in connection with the Improvements, and all leases, occupancy agreements, and rents and profits thereof;
- (b) All materials intended for construction, reconstruction, alteration or repair of the Improvements;
- (c) All Borrower's goods, equipment, inventory and articles of personal property now or hereafter attached to, located on or used in connection with the Improvements, including without limitation, furniture, furnishings, appliances, partitions, screens, window treatments, floor coverings, hall and lobby equipment and cleaning and maintenance equipment and supplies;
- (d) All replacements of and additions to all of the property described above as the "Premises";
- (e) The proceeds of any insurance for damage to the property described above as the "Premises"; and
- (f) The proceeds of all judgments, awards of damages and settlements for, or in lieu of, the taking by eminent domain of any part of the property described above as comprising the "Premises".

Collateral:

- (a) All Borrower's accounts, accounts receivable, contract rights, documents, instruments, general intangibles, and rents and profits arising from the Mortgaged Property;
- (b) Borrower's personal property including inventory, supplies, furniture, furnishings, equipment, and building and construction materials, used or useful in the construction, operation or maintenance of the Mortgaged Property;
- (c) Borrower's rights as lessee of all property now or hereafter located on or used in connection with the operation or maintenance of the Premises;
- (d) To the extent assignable, all contracts, agreements, licenses, permits and approvals for the construction, ownership, maintenance and operation of the Mortgaged Property;
- (e) All warranties and guarantees of construction contractors and

subcontractors and of suppliers and manufacturers of equipment and material or other property incorporated into the improvements or otherwise constituting part of the Premises;

- (f) The goodwill and trade names of Borrower and any business conducted on the Mortgaged Property by Borrower, and all service marks and logotypes used in connection therewith;
- (g) All books, records, plans and specifications and operating manuals of Borrower relating to the construction, use, operation, occupancy, and maintenance of the Mortgaged Property;
- (h) The proceeds of any insurance for damage to the property described above as "Collateral"; and
- (i) The proceeds of all judgments, awards of damages, and settlements for, or in lieu of, the taking by eminent domain of all or any part of the property described above as "Collateral".

Hazardous Materials: Oil, hazardous materials, hazardous wastes and hazardous substances as defined in the Hazardous Materials Indemnification Agreement by and between Lender and Borrower of even date herewith (the "Hazardous Materials Indemnification Agreement").

Article II. Grant of Mortgage and Security Interest

2.1 Grant of Mortgage

For good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, Borrower GRANTS to Lender, with MORTGAGE COVENANTS the Mortgaged Property as security for the Obligations. Upon payment in full of all amounts due under the Note, Mortgage and other Loan Documents, this Mortgage shall be void and of no effect and thereafter Lender shall deliver to Borrower a discharge of this Mortgage suitable for recording.

2.2 Grant of Security Interest

Borrower grants Lender a first priority security interest in the Collateral under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts. Neither this grant of a security interest nor the filing of a financing statement shall, however, be deemed to impair the intention that to the extent possible all property included in the Mortgaged Property is a part of the real estate. THIS MORTGAGE HEREBY ALSO CONSTITUTES A FINANCING STATEMENT FILED TO PERFECT LENDER'S INTEREST IN THE COLLATERAL UNDER THE UNIFORM COMMERCIAL CODE IN EFFECT IN THE COMMONWEALTH OF MASSACHUSETTS, AS AMENDED OR RECODIFIED FROM TIME TO TIME.

Article III. Representations, Warranties, and Agreements

3.1 General

Borrower hereby represents, warrants and agrees with Lender that:

- (a) Borrower is duly authorized to make and enter into the Loan Documents and to carry out the transactions contemplated therein;
- (b) The Loan Documents have each been duly executed and delivered on behalf of Borrower;
- (c) Borrower will pay and perform all of the Obligations; and
- (d) Borrower shall, at its expense, cause this Mortgage and each amendment thereof and appropriate financing and continuation statements to be recorded and filed in order to establish and preserve the liens and security interests of Lender.

3.2 Title to Property; Other Liens

Borrower represents, warrants and agrees that:

- (a) Borrower owns good clear record and marketable fee simple absolute title to the Mortgaged Property, free of all encumbrances except those specifically described in Exhibit A. Borrower shall not permit or suffer to be created, and shall promptly discharge, any mortgage, lien, attachment, lis pendens, or other encumbrance on the Mortgaged Property or any part thereof or interest therein, other than this Mortgage and those matters enumerated in Exhibit A. Borrower shall promptly give Lender notice of, and, unless Lender requests otherwise, Borrower shall appear in and diligently contest at Borrower's expense, any action or proceeding which purports to affect Borrower's title to the Mortgaged Property, the priority or validity of the lien of this Mortgage, or any rights created or secured by the Loan Documents. Lender shall have the right to intervene or otherwise participate in any such action or proceeding, whether or not a continuing Event of Default exists;
- (b) Borrower will take all reasonable steps to prevent the recording of any materialman's or mechanic's lien relating to the Mortgaged Property or the construction of the Improvements. Borrower will take all steps necessary, including bonding, to discharge or remove the same promptly from the record after Borrower has knowledge thereof; and
- (c) Lender may allow Borrower to contest any notice, lien, attachment, lis pendens or other encumbrances relating to the Mortgaged Property, or any tax, assessment or other governmental levy, provided that Borrower contests the same diligently and in good faith and provides Lender with adequate security, in Lender's reasonable judgment, against the enforcement thereof or loss therefrom during such contest. Borrower acknowledges that certain encumbrances may present such a threat to Lender's security that Lender need not allow Borrower to contest the same or may require Borrower to deliver to Lender cash, or its equivalent, equal in value to the encumbrance.

3.3 Restrictions on Transfers. Except as permitted by the Loan Agreement, Borrower will not without the prior written approval of Lender in each instance:

- (a) Convey, assign, or permit the conveyance or assignment of all or any part of any legal or beneficial interest in the Mortgaged Property, except that Borrower may replace items constituting part of the Collateral where such replacements are at least equal in function, quality and value; or
- (b) Collect funds for the occupancy or use of the Mortgaged Property or any part thereof from any tenant or other occupant or user in excess of two month's rent and security deposit.

3.4 Leases

Borrower will:

- (a) Not enter into any lease or any agreement of any kind permitting present or future occupancy or use of the Mortgaged Property or any part thereof if to do so would constitute or create a default under any financial covenants set forth in the Loan Agreement without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed;
- (b) Not amend, terminate or take any action which would adversely affect Borrower's rights under, or cause or permit a termination of, any existing or future leases or agreements if to do so would constitute or create a default under any financial covenants set forth in the Loan Agreement without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed;
- (c) Punctually perform all the terms and conditions to be performed by Borrower under each lease and agreement to which the Mortgaged Property is at any time subject, which failure would entitle the tenant to withhold rent or terminate the lease;
- (d) Assign to Lender all leases and agreements and the rents and profits therefrom. Such assignments shall (i) be in form satisfactory to Lender, (ii) be legally sufficient to empower Lender to assign any such leases and agreements to any person acquiring title to all or any part of the Mortgaged Property by foreclosure proceedings or otherwise; (iii) shall provide that after foreclosure or delivery of a deed in lieu of foreclosure, no assignee of any lease or agreement so assigned shall be liable to account to Borrower for rents or profits thereafter accruing; and (iv) permit Lender after any Event of Default to collect rents and profits and to apply the same to the Loan Amount;
- (e) Promptly notify Lender of any material default of which Borrower has knowledge under any such lease or agreement;
- (f) Not permit any occupant of the Mortgaged Property to use any part thereof for the use, generation, treatment, storage, or disposal of Hazardous Materials except in compliance with all applicable laws and regulations.

3.5 Payments

Borrower will pay when due:

- (a) All principal, interest and other charges, if any, due under the Loan Documents;
- (b) Except as permitted in Section 3.2(c) of this Mortgage, all taxes, betterments, assessments and other governmental levies, water and sewer charges, insurance premiums, and other charges, to whomever assessed, whether on the Mortgaged Property or any interest therein, on the Loan Documents, or on any debt secured thereby; and
- (c) All federal, state and municipal taxes of whatever kind and nature which could, if unpaid, result in a lien on the Mortgaged Property or on any interest therein.

3.6 Operation of the Mortgaged Property

Borrower will:

- (a) Make such repairs and replacements and take such other steps as may be reasonably necessary to maintain the Mortgaged Property in at least as good condition as the same now are or hereafter may be put in while this Mortgage is outstanding, deterioration incidental to reasonable wear and tear and eminent domain takings only excepted, it being understood, however, that the foregoing exception for reasonable wear and tear shall not relieve Borrower from the obligation to repair or replace worn out, inoperative, obsolete or otherwise deficient elements of the Mortgaged Property that are reasonably required to maintain tenant occupancy of the Mortgaged Property;
- (b) Observe all federal, state and local laws, ordinances, rules and regulations relating to the Mortgaged Property or the use thereof;
- (c) Not, except as expressly approved by Lender, make or permit any material alteration to, any removal or demolition of, or any strip or waste of, the Mortgaged Property; and
- (d) Not permit the use of the Mortgaged Property for any purpose except uses permitted by law.

3.7 Taxes Account

Borrower will:

- (a) Upon request from Lender, deposit with Lender monthly, on each date on which a payment is due under the Note, or on such other date as Lender may specify, one-twelfth of such amount as Lender estimates will be required to pay all taxes, betterments, assessments and other governmental liens against the Mortgaged Property before the same become due. Lender shall not be deemed a trustee with respect to such deposits and shall not be required to keep said deposits separate from its general accounts or to pay interest thereon to Borrower unless required by law. If at any time Lender determines such Deposits are or will be insufficient to discharge the amounts actually required to pay such taxes, betterments, assessments and liens as may be due, any deficiency shall be promptly deposited by Borrower with Lender. If escrowing taxes pursuant hereto, Borrower shall transmit to Lender all bills for such taxes, betterments, assessments and liens as soon as received. Should the amount deposited with Lender by Borrower in any year exceed the amount required, such excess shall be applied to escrow payments for the succeeding year; and
- (b) If at any time Lender does not require the escrow of tax payments, furnish Lender with the receipted real estate tax and assessments bills for the Mortgaged Property within five (5) days after payment of the same on a timely basis.
- (c) After prior written notice to Lender, Borrower may at its own expense (as between Lender and Borrower), contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount, validity or application in whole or in part of any of the taxes, provided neither the Mortgaged Property nor any part thereof will be in danger of being sold, forfeited, terminated, cancelled or lost and Borrower shall have deposited with Lender adequate reserve for payment of such taxes, unless Borrower has paid all of such taxes.

3.8 Notices

Borrower will deliver to Lender promptly upon receipt of the same, copies of all notices, certificates and documents received by Borrower which materially affect the Mortgaged Property or its use or which make a claim or assertion which if true would cause Borrower to be in default under the Loan Documents.

3.9 Security Agreement Representations

The Collateral shall be used for business purposes and shall be kept at the Premises. When requested by Lender in writing, Borrower will:

- (a) Provide Lender with an inventory of the Collateral in form reasonably satisfactory to Lender;
- (b) Execute and deliver to Lender, in form appropriate for recording and filing, a first security agreement and financing statements relating to the Collateral. In connection with the grant of security interest made hereby, Borrower hereby authorizes Lender to file or cause to be filed one or more financing statements, amendments to financing statements and/or in lieu financing statements with any filing office for the purpose of perfecting or continuing the perfection of the security interest in the Collateral.
- (c) Provide to Lender such other assurances as may be required by Lender to establish Lender's first security interest in the Collateral.

3.10 Borrower's Obligation to Report Defaults

Borrower will promptly notify Lender upon becoming aware of any event which would constitute an Event of Default hereunder, or which would constitute an Event of Default hereunder if it were to continue after any notice required.

Article IV. Insurance

4.1 Coverage

Borrower shall obtain and keep in force insurance as to the Mortgaged Property at all times during the term of the Loan as required under the Loan Agreement.

4.2 Co-Insurance Provision

The terms of all insurance policies shall be such that no co-insurance provisions apply. If, however, a policy does contain a co-insurance provision, Borrower shall insure the Mortgaged Property in an amount sufficient to prevent the application of the co-insurance provisions.

4.3 Insurers

All insurance shall be written by insurers qualified to do business in Massachusetts having a general policy rating of "A" or better and a financial class of VI or better given by A.M. Best Company, Inc. All Evidence of insurance shall be deposited with Lender. Borrower will update Lender on any insurance renewals.

4.4 Expiration of Insurance

Not fewer than fifteen (15) days prior to the expiration dates of the expiring policies, Borrower shall deliver to Lender evidence of insurance replacing the expiring policies and bearing notations evidencing the payment of premiums or accompanied by other evidence of such payment satisfactory to Lender.

4.5 Policy Provisions

All insurance shall be in form acceptable to Lender where applicable, shall provide that any proceeds shall be first payable to Lender, as its interests may appear, pursuant to a non-contributory standard mortgagee endorsement, and shall provide that twenty (20) days' written notice must be given to Lender before any such policy can be canceled, modified or renewal thereof refused. Borrower shall perform all the conditions of all insurance policies covering the Mortgaged Property and, in case of any loss or damage, Borrower will give immediate notice to Lender, who may make proof of loss or claim. Each insurance company is hereby authorized and directed to make payment for such loss directly to Lender instead of to Borrower in case of Borrower's physical damage insurance.

4.6 Application of Proceeds

The insurance proceeds for casualty shall be adjusted by and paid to Lender. Subject to the terms of the Loan Agreement, after deducting all costs and expenses, including reasonable attorneys' fees incurred by Lender in connection therewith, Lender shall release such portion of the proceeds to Borrower as is necessary to restore the Mortgaged Property to its prior condition insofar as is practicable, upon such terms and conditions as Lender deems appropriate. Lender shall apply the balance thereof, if any, to the Loan Amount. If any insurer of the Mortgaged Property denies liability, Borrower shall not be relieved of its obligation to restore the Mortgaged Property. If at any time Lender determines that the amount of proceeds is insufficient to complete restoration, Borrower shall deposit the amount of such deficiency with Lender within thirty (30) days after notice from Lender. All plans and specifications for the restoration shall be approved by Lender prior to commencement of the restoration. Except to the extent insurance proceeds are actually retained by Lender and applied to the Loan Amount, nothing herein shall be deemed to relieve Borrower from the obligation to restore all damage and destruction to the Mortgaged Property, regardless of whether or not sufficient proceeds are available. No such retention and application shall be deemed a cure or waiver of any Event of Default under this Mortgage.

Article V. Eminent Domain

5.1 Taking

In case of any condemnation for public use of, or any damage by reason of the action of any governmental entity or authority to, all or any part of the Mortgaged Property (a "Taking"), or the commencement of any proceedings or negotiations which might result in a Taking or a settlement in lieu thereof, Borrower shall promptly give written notice thereof to Lender, describing the nature and extent of the Taking or the nature of such proceedings or negotiations. Lender may, at its option, appear in any such proceedings or negotiations, and Borrower shall promptly give Lender copies of all notices, pleadings, determinations and other papers. Borrower shall in good faith and with due diligence file and prosecute Borrower's claim for any award or payment on account of any Taking. Borrower shall not settle any such claim without Lender's prior written consent.

5.2 Application of Award

Except as permitted in the Loan Agreement, Borrower hereby assigns to Lender all of Borrower's rights in any award received in connection with a Taking or any settlement received in lieu thereof and authorizes such awards and settlements to be paid directly to Lender. If Borrower collects any such award, Borrower shall promptly pay the same to Lender. Any such award, after deducting therefrom all costs and expenses, including reasonable attorneys' fees incurred by Lender in connection therewith, shall be applied as follows:

- (a) In the case of a partial Taking, if no Event of Default exists and Lender reasonably determines that the Mortgaged Property can be economically restored and operated in accordance with the Loan Documents, Lender shall release to Borrower on terms and conditions satisfactory to Lender so much of such award, reduced as provided above, as may be necessary to restore the Mortgaged Property, and the balance, if any, shall be applied to the Loan Amount; and
- (b) In the case of a complete Taking, or in the case of a partial taking, if an Event of Default exists or if Lender reasonably determines that the Mortgaged Property cannot be economically restored and operated in accordance with the Loan Documents, Lender may, at its option, apply such award, reduced as provided above, to the reduction of balance to be paid to Borrower.

Article VI. Defaults and Remedies

6.1 Events of Default

The occurrence of any Event of Default under the Loan Agreement shall constitute an "Event of Default" under this Mortgage after the expiration of any applicable notice or cure period.

6.2 Remedies

After an Event of Default, Lender may, at its option and without notice:

- (a) Exercise any of Lender's remedies provided in any of the Loan Documents;
- (b) Declare the Loan Amount immediately due and payable;
- (c) Apply to the Loan Amount any deposits or other sums credited by or due from Lender to Borrower;
- (d) Take possession of the Mortgaged Property and operate the Mortgaged Property as a mortgagee in possession with all the same powers as could be exercised by a receiver (the availability of this remedy shall not impair the Lender's remedies under any other Loan Document such as the Collateral Assignment of Leases and Rents);
- (e) Make any payments required to be made by Borrower under the Loan Documents. The amount of all such payments shall be immediately due and payable by Borrower, and until paid, shall be added to the Loan Amount and secured by the Loan Documents with the same priority as the face amount of the Mortgage. Such payments may include, but are not limited to, payments for taxes and other governmental levies, water rates, insurance premiums, maintenance, repairs or improvements of the Mortgaged Property;

- (f) Perform any and all obligations of Borrower under the Loan Documents without waiving any rights or releasing Borrower from any obligations thereunder;
- (g) Exercise any of the rights and remedies of a secured party under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts, including but not limited to:
 - (i) Either personally or by means of a receiver, take possession of all or any of the Collateral and exclude therefrom Borrower, and all others claiming under Borrower, and thereafter store, use, operate, manage, make repairs, replacements, alterations and additions to and exercise all rights and powers of Borrower with respect to the Collateral or any part thereof;
 - (ii) Without notice to or demand upon Borrower, make such payments and do such acts as Lender may deem necessary to protect its security interest in the Collateral, including without limitation, paying, contesting or compromising any encumbrance or lien which is prior to the security interest granted hereunder, and in exercising any such powers to pay all expenses incurred in connection therewith;
 - (iii) Require Borrower to assemble the Collateral or any portion thereof, at a place designated by Lender and reasonably convenient to both parties, and promptly to deliver possession of such Collateral to Lender or an agent designated by Lender. Lender and its agents shall have the right to enter upon any of Borrower's property to exercise Lender's rights hereunder;
 - (iv) Sell, lease or otherwise dispose of the Collateral at private or public sale, with or without having the Collateral at the place of sale, and upon such terms and in such manner as Lender may determine. Lender may be a purchaser at such sale; and
 - (v) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender shall give Borrower at least five (5) days' prior written notice of the time and place of any private or public sale of the Collateral or other intended disposition thereof;
- (h) Exercise the STATUTORY POWER OF SALE.
- (i) Take such other actions or proceedings as Lender deems necessary or advisable to protect its interest in the Mortgaged Property.

6.3 Statutory Power of Sale

This Mortgage is on the STATUTORY CONDITION and upon the further condition that all agreements of the Borrower contained in the Loan Documents be fully performed for any breach of which Lender shall have the STATUTORY POWER OF SALE. In the event of the exercise of the STATUTORY POWER OF SALE, Lender may foreclose on and sell all or any part of the Mortgaged Property, and thereafter Lender shall continue to have the STATUTORY POWER OF SALE so long as any portion of the Mortgaged Property remains subject to this Mortgage.

6.4 No Waiver or Release

No delay or omission on the part of Lender in exercising any right hereunder or under the Loan Documents shall operate as a waiver of such right or of any other right, and a waiver of any such right on any

one occasion shall not be construed as a bar to or a waiver of any such right on any other occasion. No sale of any of the Mortgaged Property, no forbearance on the part of Lender, no release or partial release of any of the Mortgaged Property, and no extension, whether oral or in writing, of the time for the payment of the whole or any part of the Loan Amount or any other indulgence given by Lender to Borrower or any other person or entity, shall operate to release or in any manner affect the lien of the Mortgage or the liability of Borrower, notice of any such extensions or indulgences being hereby waived by Borrower.

6.5 Cumulative Rights and Remedies

Lender shall have the right to exercise any and all remedies under the Loan Documents until all Events of Default have been cured, and such remedies may be exercised individually, sequentially or in concert, all such remedies being cumulative, the exercise of one not being deemed a waiver of any of the others or a cure of any default.

6.6 Borrower's Waiver of Certain Rights

Borrower waives any rights it may have to receive notice of any action or proceeding to enforce Lender's rights under any Loan Document other than the notices herein provided for. In the event of foreclosure, Borrower will not claim the benefit of any law now or hereafter in force providing for any appraisal, stay, extension or redemption. Borrower waives all rights of redemption, appraisal, stay of execution, notice of acceleration and marshaling.

6.7 Effect of Exercise of Rights

Any action taken or sums paid, and any costs or expenses incurred by Lender, including attorneys' fees, pursuant to Lender's exercise of its rights, shall as between the parties be deemed valid, so that in no event shall the necessity or validity of any such action or payments, costs or expenses be disputed.

6.8 Change in Law

If any law as hereafter enacted by the Commonwealth of Massachusetts changes in any way the laws applicable to mortgages or the taxation thereof or the manner of collection of any such taxes, so as to affect adversely and materially any rights of Lender or any provisions hereof, the Loan Amount hereby secured shall, at the election of the Lender, become due and payable on demand; provided, however, that if the Borrower can lawfully pay any amount or promptly perform any obligation, and forthwith pays or performs the same, so that any such change in law does not adversely and materially affect the rights of the Lender, the Loan Amount shall not be accelerated.

Article VII. General

7.1 Lender's Expenses

To the extent permitted by law, if Lender retains an attorney to collect any sums due under this Mortgage, enforce any of the provisions hereof, or otherwise protect Lender's interests, Borrower agrees to pay Lender, on demand, all costs and expenses reasonably incurred in connection therewith, including all court costs and reasonable attorney's fees, whether or not suit is brought or prosecuted to completion, together with interest thereon at the rate applicable under the Note to amounts past due.

7.2 Indemnification

Borrower agrees to hold harmless and indemnify Lender from all liability, loss, cost, damage, and

expense from any claim for damage to property or death or injury to persons which may arise in connection with the construction, use, or occupancy of the Mortgaged Property, not otherwise covered by insurance, including any liability, loss, cost, damage or expense arising from a violation of the Superfund and Hazardous Waste Laws except as such liability shall be the result of the gross negligence, bad faith or willful misconduct of Lender.

7.3 Joint and Several Liability

If more than one party executes this Mortgage the term Borrower shall mean all of them, and each of them shall be jointly and severally liable hereunder.

7.4 Captions

Captions are used for convenience of reference only and are not to be construed as part of the terms of this Mortgage.

7.5 Severability

The invalidity of any provisions of this Mortgage shall in no way affect the validity of any other provision.

7.6 Singular and Plural

Where required by the context, the singular shall include the plural and the plural shall mean the singular.

7.7 Gender

The masculine, feminine and neuter forms shall be interpreted interchangeably wherever the text requires.

7.8 Successors and Assigns

This Mortgage is binding upon and shall inure to the benefit of the parties hereto and their heirs, successors, personal representatives, and assigns.

7.9 Notices

Any notice, request, demand or other communication required or permitted hereunder shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail, postage prepaid or telegram sent to the intended addressee at the applicable address set forth on Page 1 hereof or to such different address as either Borrower or Lender shall have designated by written notice to the other sent in accordance herewith. Such notices shall be deemed given when received or, if earlier, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, four (4) days after deposit therein.

7.10 Governing Law

The provisions hereof shall be construed in accordance with the laws of the Commonwealth of Massachusetts.

7.11 Jurisdiction

Borrower submits to personal jurisdiction in the Commonwealth of Massachusetts and waives any and all personal rights to object to such jurisdiction. Borrower agrees that service of process may be made and personal jurisdiction obtained by serving Borrower at the address stated on the first page hereof.

7.12 Changes in Writing

This Mortgage may not be changed, waived, or terminated except in a writing signed by the party against whom enforcement of the change, waiver, or termination is sought.

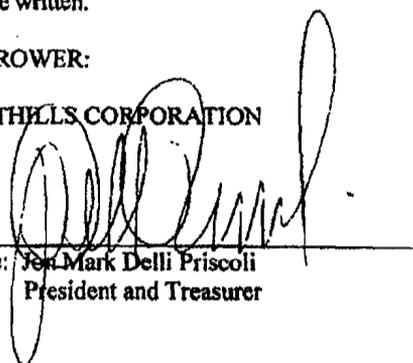
7.13 Other Representations and Warranties

All statements contained in any loan application, certificate or other instrument delivered by Borrower to Lender or Lender's representatives in connection with the Loan secured by this Mortgage shall constitute representations and warranties made by Borrower hereunder.

EXECUTED under seal as of the date first above written.

BORROWER:

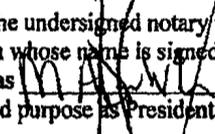
FOOTHILLS CORPORATION

By: 
Name: Jon Mark Delli Priscoli
Title: President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

June 20, 2013

Then personally appeared, before me, the undersigned notary public, the above-named Jon Mark Delli Priscoli, and proved to me to be the person whose name is signed on the preceding document, through satisfactory evidence of identification, which was  and acknowledged that he signed the foregoing instrument voluntarily for its stated purpose as President and Treasurer of Foothills Corporation, before me.

Notary Public
My Commission Expires:

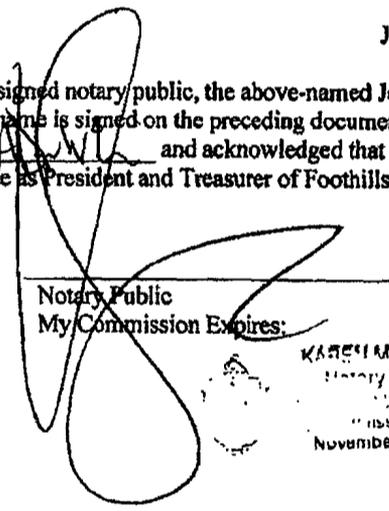

KAREEM MYERS
Notary Public
Commonwealth of Massachusetts
Commission Expires
November 5, 2015

Exhibit "A"

The land with the buildings and improvements thereon located at 19 Brigham Street Marlborough, Middlesex County, Massachusetts being shown as Lot 1A on a plan entitled "Plan of Land in Marlborough, Mass." Owned by: Assabet Realty Trust Bk 15376, Page 539-541, Scale: 1" = 40', date: June 13, 1984 by Highland Land Surveyors, Inc. 69 Maple Street Marlboro, Mass. Being recorded as Plan Number 1622 of 1985 in Book 16604, Page 454 with the Middlesex South District Registry of Deeds and to which plan reference may be had for a more complete and accurate description of Lot 1A.

Lot 1A contains 166,763 S.F. or 3.828 acres, more or less, however bounded and described, according to said plan.

Said premises are conveyed subject to and together with the benefit of rights as set forth in that certain Driveway and Utility Easement dated November 19, 1984, recorded in Book 15886, Page 383, with said Deeds as ratified and confirmed and amended by Easement Agreement dated January 21, 1985, recorded in Book 16000, Page 210, with said Deeds and as confirmed in that certain release deed from Peter T. True, Trustee of Assabet Realty Trust to the Federal Deposit Insurance Corporation, dated June 7, 1985, recorded as Instrument Number 417 of June 8, 1995, with said Deeds.

For title reference see deed recorded in Book 25432, Page 269.

Return to:
Law Offices of Steve Ross, P.C.
83 Speen Street
Natick, MA 01760

COLLATERAL ASSIGNMENT OF LEASES AND RENTS



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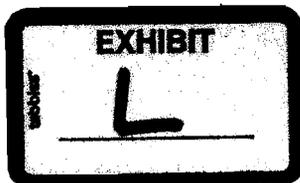
Definitions

The terms used below shall have the meanings there indicated. All capitalized terms used herein and not otherwise defined herein shall have the meanings as set forth in the Loan Agreement and Mortgage.

- Date: June 20, 2013
- Lender: Digital Federal Credit Union
a federally chartered credit union
220 Donald Lynch Boulevard
Marlborough, MA 01752
- Borrower: Foothills Corporation
a Massachusetts corporation
929 Boston Post Road East
Marlborough, MA 01752
- Loan Amount: \$3,420,000.00
- Mortgaged Property: The Mortgaged Property as defined in the Mortgage and Security Agreement by Borrower to the Lender of even date and recorded herewith (the "Mortgage") covering property located at 19 Brigham Street, Marlborough, Middlesex County, Massachusetts, as more particularly described in the Mortgage securing the Loan Amount.
- Loan Agreement: A certain Term Loan Agreement of even date herewith by and between Borrower and Lender.
- Note: A certain Adjustable Rate Mortgage Note of even date herewith by and between Borrower and Lender in the original principal amount of the Loan Amount.
- Assigned Leases: All of Borrower's right, title and interest in any to and all leases or occupancy agreements of whatever name or description and all extensions and renewals thereof heretofore or hereafter entered into with respect to the Mortgaged Property or any part thereof.
- Assigned Rents: All of Borrower's right, title and interest in and to the rents, issues and profits from the Assigned Leases, collected or to be collected, arising or issuing out of the Mortgaged Property or any part thereof and all other rents, issues, and profits from the Mortgaged Property.
- Exhibit A: The leases, if any, which Borrower warrants are in effect on the date hereof.

19 Brigham St, Marlborough MA

1. Assignment and Grant of Security Interest



Borrower, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, transfers and assigns to Lender all of Borrower's right, title and interest in and to the Assigned Leases and the Assigned Rents, it being intended that this is a present assignment and not a conditional assignment to secure all of Borrower's obligations to Lender, now existing or hereafter arising, including, but not limited to, Borrower's obligations to Lender under the Loan Documents. Upon payment in full of all amounts due under the Loan Documents, this Assignment shall be void and of no effect.

2. Borrower's Agreements and Warranties

Borrower warrants and agrees:

- (a) that Borrower is the sole owner of the entire landlord's interest in the Assigned Leases and the Assigned Rents and that Borrower has not sold, assigned, mortgaged or pledged the Assigned Leases or Assigned Rents;
- (b) that, to the best of Borrower's knowledge, the Assigned Leases are valid and enforceable and have not been amended in any manner whatsoever except as herein set forth;
- (c) that, to the best of Borrower's knowledge, the tenants of the Assigned Leases are not in default under any of the provisions thereof;
- (d) that no rent reserved in the Assigned Leases has been assigned or anticipated and that no rent for any period subsequent to the date of this Assignment has been collected in advance of the time when the same became due under the Assigned Leases;
- (e) to observe and perform all the obligations imposed upon the landlord under the Assigned Leases and not to do or permit to be done anything to impair the enforceability of the Assigned Leases;
- (f) not to collect any of the Assigned Rents in advance of the time when the same shall become due (other than any security deposits);
- (g) not to subordinate the Assigned Leases to any mortgage or other encumbrance or permit or agree to such subordination without Lender's prior written consent;
- (h) not to amend the Assigned Leases or give any consent or exercise any option required or permitted by the Assigned Leases without Lender's prior written consent;
- (i) not to terminate the Assigned Leases nor accept a surrender thereof nor convey or transfer any interest therein or in the Mortgaged Property so as to effect directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, the landlords and tenants thereunder;
- (j) not to convey, transfer, or assign the Assigned Leases or any interest therein without Lender's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed;
- (k) not to allow, permit, or suffer any subletting under any of the Assigned Leases without Lender's prior written consent;

- (l) not to amend the terms of any guaranty of the Assigned Leases nor terminate any guaranty of the Assigned Leases without the prior written consent of Lender;
- (m) to assign and transfer to Lender any and all subsequent leases, rents, issues and profits of all or any part of the Mortgaged Property and to execute and deliver at the request of Lender all such further assurances and assignments as Lender shall from time to time require;
- (n) to enforce all provisions of the Assigned Leases and cause the tenants thereof to comply with said provisions; and
- (o) Borrower shall not permit or suffer any occupant of the Mortgaged Property to use all or any part thereof for the use, generation, treatment, storage, or disposal of Hazardous Materials without the prior written consent of Lender, and then only to the extent that the Hazardous Materials are licensed and approved in accordance with all applicable laws and regulations and are in compliance with the terms of Lender's written approval.

At the option of Lender, all future leases of the Mortgaged Property shall require tenants to:

- (p) provide Borrower and Lender with copies of all notices, including, without limitation, all notices of violations and notices of responsibility or demand for action received from any federal, state or local authority or official in connection with Hazardous Materials in or on the leased premises or Mortgaged Property; and
- (q) indemnify and hold Borrower and Lender and their heirs, successors and assigns harmless from and against all loss, cost, liability, damage, and expense including attorneys' fees and the costs of litigation, arising from any Hazardous Materials in or on the leased premises or Mortgaged Property due to any act or omission of tenant.

3. Revocable License to Collect Rents

So long as no Event of Default exists under the Loan Documents, or in the performance of any obligations contained in the Assigned Leases, Borrower shall have a revocable license to collect the Assigned Rents.

4. Default by Borrower

The occurrence of any one or more of the following events shall constitute an "Event of Default":

- (a) default by Borrower under any of the provisions of this Assignment, which default continues for more than fifteen (15) days; and
- (b) an Event of Default under any other Loan Document.

5. Lender's Remedies

On the occurrence of an Event of Default, Lender may at any time thereafter exercise any or all of the following remedies without notice and without regard to the adequacy of the security for the obligations secured hereby:

- (a) either in person or by agent, have a receiver appointed by a court;

- (b) revoke Borrower's license to collect the Assigned Rents and in its own name, demand, sue for, or otherwise collect and receive all Assigned Rents, including those past due and unpaid, without taking possession of the Mortgaged Property, any statute, law, custom, or use to the contrary notwithstanding, and apply the Assigned Rents to the payment of the indebtedness secured hereby and by the Note, Mortgage and other Loan Documents, together with all costs and attorneys' fees, and return the balance, if any, to Borrower;
- (c) either in person or by agent, with or without bringing any action or proceeding, take possession of the Mortgaged Property, and have, hold, manage, lease and operate the same for such period of time and on such terms as Lender in its sole discretion may deem appropriate;
- (d) make from time to time all alterations, renovations, repairs, or replacements to the Mortgaged Property as may seem proper to Lender;
- (e) terminate any or all of the Assigned Leases and relet the Mortgaged Property on such terms and conditions as Lender deems appropriate except as such Assigned Leases are affected by executed Subordination, Non-Disturbance and Attornment Agreements executed with Lender;
- (f) assign, mortgage or pledge the Assigned Leases and assigned Rents;
- (g) apply the Assigned Rents to the payment of: (i) all expenses of managing the Mortgaged Property, including, the salaries of a managing agent and such other employees as Lender may deem necessary or desirable, (ii) all expenses of operating and maintaining the Mortgaged Property, including, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which Lender may deem necessary or desirable, and (iii) the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Mortgaged Property and reletting the same including broker's fees; and (iv) the indebtedness secured hereby and by the Note, Mortgage and other Loan Documents, together with all costs and attorneys' fees, in such order of priority as Lender in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding.

Lender may exercise any or all of its remedies hereunder prior to, simultaneously with, or subsequent to the exercise of any rights under the other Loan Documents.

6. No Liability of Lender

Borrower agrees that:

- (a) Lender shall not be liable for any loss sustained by Borrower from Lender's failure to let the Mortgaged Property after default or from any other act or omission of Lender in managing the Mortgaged Property after default unless such loss is caused by the willful misconduct and bad faith of Lender;
- (b) Lender shall not be liable for any waste committed on the Mortgaged Property by the tenants or any other parties, or for any dangerous or defective condition of the Mortgaged Property or for any damage to property or injury or death to any person resulting from the

management, upkeep, repair or control of said Mortgaged Property unless such loss is caused by the willful misconduct or gross negligence of Lender; and

- (c) Prior to Lender actually entering and taking possession of the Mortgaged Property, this Assignment shall not place responsibility for the control, care, management or repair of the property upon Lender nor obligate Lender to comply with any of the provisions of the Assigned Leases.

7. Indemnification

Borrower shall indemnify Lender against and hold Lender harmless from, any and all liability, loss, cost, damage or expense, including reasonable attorney's fees, which may be incurred under the Assigned Leases or under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against 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 Assigned Leases and Borrower shall reimburse Lender therefor immediately upon demand and upon the failure of Borrower so to do Lender may, at its option, declare all sums secured hereby and by the Note, Mortgage and other Loan Documents immediately due and payable.

8. Rent Payments to Lender

Borrower directs the tenants named in the Assigned Leases, upon receipt from Lender of written notice that a default exists, to pay to Lender all Assigned Rents and to continue to do so until otherwise notified by Lender. No person making a payment to Lender shall have any obligation to inquire into the actual existence of an Event of Default claimed by Lender or to the application of the Assigned Rents. The certificate, letter, or statement of any officer, agent or attorney of Lender that any part of the indebtedness remains unpaid shall be conclusive evidence of the validity, effectiveness and containing force of this Assignment and any person may rely thereon.

9. Other Security

Lender may take or release other security for the performance of the obligations of Borrower under the Note, Mortgage and the other Loan Documents, may release any party primarily or secondarily liable therefor, and may apply any other security held by it to the satisfaction thereof without prejudice to any of its rights under this Assignment.

10. Lender's Rights of Assignment; Rights of Assignees

Lender may assign to any subsequent holder of the Note or Mortgage, or to any person acquiring title to the Mortgaged Property, all of the Lender's right, title and interest in any Assigned Leases and Assigned Rents. No assignee shall have any liability for any obligation which accrued under the Assigned Leases prior to the assignment to said assignee nor shall such assignee have any obligation to account to Borrower for any Assigned Rents which accrued prior to such assignment. After Borrower's right, title and interest in the Mortgaged Property has been foreclosed or otherwise terminated, no assignee of Borrower's interest in the Assigned Leases and Assigned Rents shall be liable to account to Borrower for any rents, issues or profits thereafter accruing.

11. No Waiver By Lender

Nothing contained in this Assignment and no act done or omitted by Lender pursuant to this Assignment nor the collection of any Assigned Rents shall be deemed to be a waiver by Lender of its

rights and remedies under the Note, Mortgage, or other Loan Documents nor a waiver of any default by Borrower thereunder.

12. Mortgage Governs

In case of any conflict between this Assignment and the Mortgage, the Mortgage shall govern.

13. Joint and Several Liability

If more than one party executes this Assignment, the term Borrower shall mean all of them, and each of them shall be jointly and severally liable hereunder.

14. Captions

Captions are used for convenience of reference only and are not to be construed as part of the terms of this Assignment.

15. Severability

The invalidity of any provision of this Assignment shall in no way affect the validity of any other provision.

16. Singular and Plural

Where required by the context the singular shall include the plural and the plural shall mean the singular.

17. Gender

The masculine, feminine and neuter forms shall be interpreted interchangeably whenever the context requires.

18. Successors and Assigns

This agreement is binding upon and shall insure to the benefit of the parties hereto and their heirs, successors, personal representatives, and assigns.

19. Notices

Any notice, request, demand or other communication required or permitted hereunder shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail, postage prepaid or telegram sent to the intended addressee at the applicable address set forth on Page 1 hereof or to such different address as either Borrower or Lender shall have designated by written notice to the other sent in accordance herewith. Such notices shall be deemed given when received or, if earlier, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, two days after deposit therein.

20. Governing Law

This Assignment shall be interpreted in accordance with and governed by the law of the Commonwealth of Massachusetts.

21. Jurisdiction

Borrower submits to personal jurisdiction in the Commonwealth of Massachusetts and waives any and all personal rights to object to such jurisdiction. Borrower agrees service of process may be made and personal jurisdiction obtained by serving Borrower at the address stated on the first page hereof.

22. Changes in Writing

This Assignment may not be changed, waived, or terminated except in a writing signed by the party against whom enforcement of the change, waiver, or termination is sought.

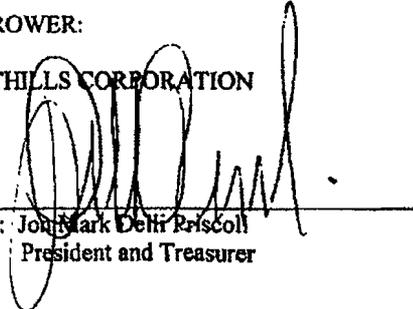
23. Cost and Attorney's Fees

To the extent permitted by law, if Lender retains an attorney to collect any sums due under this agreement, enforce any of the provisions hereof, or otherwise protect Lender's interests, Borrower agrees to pay Lender, on demand, all costs and expenses in connection therewith including all court costs and reasonable attorney's fees whether or not suit is brought or prosecuted to completion.

EXECUTED under seal as of the date first above written.

BORROWER:

FOOTHILLS CORPORATION

By: 

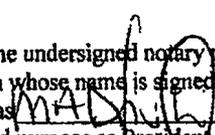
Name: Jon Mark Delli Priscoll

Title: President and Treasurer

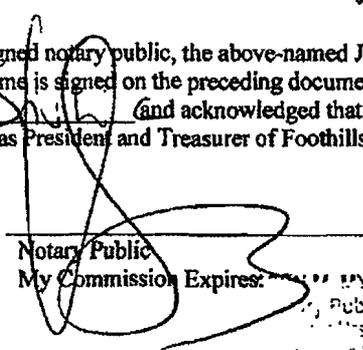
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

June 20, 2013

Then personally appeared, before me, the undersigned notary public, the above-named Jon Mark Delli Priscoll, and proved to me to be the person whose name is signed on the preceding document, through satisfactory evidence of identification, which was  and acknowledged that he signed the foregoing instrument voluntarily for its stated purpose as President and Treasurer of Foothills Corporation, before me.

Notary Public

My Commission Expires: 

MYERS
Public
Massachusetts
Expires
2015

Exhibit "A"

The land with the buildings and improvements thereon located at 19 Brigham Street Marlborough, Middlesex County, Massachusetts being shown as Lot 1A on a plan entitled "Plan of Land in Marlborough, Mass." Owned by: Assabet Realty Trust Bk 15376, Page 539-541, Scale: 1" = 40', date: June 13, 1984 by Highland Land Surveyors, Inc. 69 Maple Street Marlboro, Mass. Being recorded as Plan Number 1622 of 1985 in Book 16604, Page 454 with the Middlesex South District Registry of Deeds and to which plan reference may be had for a more complete and accurate description of Lot 1A.

Lot 1A contains 166,763 S.F. or 3.828 acres, more or less, however bounded and described, according to said plan.

Said premises are conveyed subject to and together with the benefit of rights as set forth in that certain Driveway and Utility Easement dated November 19, 1984, recorded in Book 15886, Page 383, with said Deeds as ratified and confirmed and amended by Easement Agreement dated January 21, 1985, recorded in Book 16000, Page 210, with said Deeds and as confirmed in that certain release deed from Peter T. True, Trustee of Assabet Realty Trust to the Federal Deposit Insurance Corporation, dated June 7, 1985, recorded as Instrument Number 417 of June 8, 1995, with said Deeds.

For title reference see deed recorded in Book 25432, Page 269.

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MORTGAGE AND SECURITY AGREEMENT

Article L. Definitions and Security Interests

1.1 Definitions. The terms used below shall have the meanings there indicated.

19 Brigham Street, Marlborough, MA

- Date: March ~~30~~ 2011
- Lender: Digital Federal Credit Union
a federally chartered credit union
220 Donald Lynch Boulevard
Marlborough, MA 01752
- Borrower: Foothills Corporation, a Massachusetts corporation duly organized and existing, having an address of 929 Boston Post Road East, Marlborough, Massachusetts 01752
- Note: A certain Fixed Rate Mortgage Note of even date herewith from Borrower to Lender in the original principal amount of \$2,925,000.00.
- Loan Amount: \$2,925,000.00 Two Million Nine Hundred Twenty Five
- Loan Agreement: The Term Loan Agreement of even date herewith between Borrower and Lender.
- Loan Documents: The Note, this Mortgage, the Loan Agreement and all other documents executed and delivered by Borrower in connection therewith.
- Loan: The obligations evidenced by the Loan Documents.
- Obligations:
 - (a) The payment of all amounts due and the performance of all provisions of the Note;
 - (b) The payment and performance of all provisions of all extensions, refinancings and amendments of the Note and all notes issued in substitution therefore;
 - (c) The payment and performance of all provisions under the other Loan Documents;
 - (d) The payment and performance of all other indebtedness, obligations and liabilities of Borrower to Lender existing on the date of this Mortgage or arising hereafter, absolute or contingent, matured or unmatured, secured or unsecured, of Borrower to Lender.



**Mortgaged
Property:**

The Premises and the Collateral (as defined below); all Collateral shall to the extent possible be deemed real estate, and if not real estate, then fixtures and a part of the real estate, and the balance shall be personal property.

Premises:

- (a) The fee simple estate in the land (the "Land") located at 19 Brigham Street, Marlborough, Massachusetts, as more particularly described in Exhibit A attached hereto, together with a fee simple interest in all buildings, structures and improvements ("Improvements") now or hereafter thereon, together with all appurtenances thereof and interests therein now or hereafter owned by Borrower, including Borrower's rights in all fixtures now or hereafter attached to, located on or used in connection with the Improvements, and all leases, occupancy agreements, and rents and profits thereof;
- (b) All materials intended for construction, reconstruction, alteration or repair of the Improvements;
- (c) All Borrower's goods, equipment, inventory and articles of personal property now or hereafter attached to, located on or used in connection with the Improvements, including without limitation, furniture, furnishings, appliances, partitions, screens, window treatments, floor coverings, hall and lobby equipment and cleaning and maintenance equipment and supplies;
- (d) All replacements of and additions to all of the property described above as the "Premises";
- (e) The proceeds of any insurance for damage to the property described above as the "Premises"; and
- (f) The proceeds of all judgments, awards of damages and settlements for, or in lieu of, the taking by eminent domain of any part of the property described above as comprising the "Premises".

Collateral:

- (a) All Borrower's accounts, accounts receivable, contract rights, documents, instruments, general intangibles, and rents and profits arising from the Mortgaged Property;
- (b) Borrower's personal property including inventory, supplies, furniture, furnishings, equipment, and building and construction materials, used or useful in the construction, operation or maintenance of the Mortgaged Property;
- (c) Borrower's rights as lessee of all property now or hereafter located on or used in connection with the operation or maintenance of the Premises;
- (d) To the extent assignable, all contracts, agreements, licenses, permits and approvals for the construction, ownership, maintenance and operation of the Mortgaged Property;

- (e) All warranties and guarantees of construction contractors and subcontractors and of suppliers and manufacturers of equipment and material or other property incorporated into the improvements or otherwise constituting part of the Premises;
- (f) The goodwill and trade names of Borrower and any business conducted on the Mortgaged Property by Borrower, and all service marks and logotypes used in connection therewith;
- (g) All books, records, plans and specifications and operating manuals of Borrower relating to the construction, use, operation, occupancy, and maintenance of the Mortgaged Property;
- (h) The proceeds of any insurance for damage to the property described above as "Collateral"; and
- (i) The proceeds of all judgments, awards of damages, and settlements for, or in lieu of, the taking by eminent domain of all or any part of the property described above as "Collateral".

Hazardous Materials: Oil, hazardous materials, hazardous wastes and hazardous substances as defined in the Hazardous Materials Indemnification Agreement by and between Lender and Borrower of even date herewith (the "Hazardous Materials Indemnification Agreement").

Article II. Grant of Mortgage and Security Interest

2.1 Grant of Mortgage

For good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, Borrower GRANTS to Lender, with MORTGAGE COVENANTS the Mortgaged Property as security for the Obligations. Upon payment in full of all amounts due under the Note, Mortgage and other Loan Documents, this Mortgage shall be void and of no effect and thereafter Lender shall deliver to Borrower a discharge of this Mortgage suitable for recording.

2.2 Grant of Security Interest

Borrower grants Lender a first priority security interest in the Collateral under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts. Neither this grant of a security interest nor the filing of a financing statement shall, however, be deemed to impair the intention that to the extent possible all property included in the Mortgaged Property is a part of the real estate. THIS MORTGAGE HEREBY ALSO CONSTITUTES A FINANCING STATEMENT FILED TO PERFECT LENDER'S INTEREST IN THE COLLATERAL UNDER THE UNIFORM COMMERCIAL CODE IN EFFECT IN THE COMMONWEALTH OF MASSACHUSETTS, AS AMENDED OR RECODIFIED FROM TIME TO TIME.

Article III. Representations, Warranties, and Agreements

3.1 General

Borrower hereby represents, warrants and agrees with Lender that:

- (a) Borrower is duly authorized to make and enter into the Loan Documents and to carry out the transactions contemplated therein;
- (b) The Loan Documents have each been duly executed and delivered on behalf of Borrower;
- (c) Borrower will pay and perform all of the Obligations; and
- (d) Borrower shall, at its expense, cause this Mortgage and each amendment thereof and appropriate financing and continuation statements to be recorded and filed in order to establish and preserve the liens and security interests of Lender.

3.2 Title to Property; Other Liens

Borrower represents, warrants and agrees that:

- (a) Borrower owns good clear record and marketable fee simple absolute title to the Mortgaged Property, free of all encumbrances except those specifically described in Exhibit A. Borrower shall not permit or suffer to be created, and shall promptly discharge, any mortgage, lien, attachment, lis pendens, or other encumbrance on the Mortgaged Property or any part thereof or interest therein, other than this Mortgage and those matters enumerated in Exhibit A. Borrower shall promptly give Lender notice of, and, unless Lender requests otherwise, Borrower shall appear in and diligently contest at Borrower's expense, any action or proceeding which purports to affect Borrower's title to the Mortgaged Property, the priority or validity of the lien of this Mortgage, or any rights created or secured by the Loan Documents. Lender shall have the right to intervene or otherwise participate in any such action or proceeding, whether or not a continuing Event of Default exists;
- (b) Borrower will take all reasonable steps to prevent the recording of any materialman's or mechanic's lien relating to the Mortgaged Property or the construction of the Improvements. Borrower will take all steps necessary, including bonding, to discharge or remove the same promptly from the record after Borrower has knowledge thereof; and
- (c) Lender may allow Borrower to contest any notice, lien, attachment, lis pendens or other encumbrances relating to the Mortgaged Property, or any tax, assessment or other governmental levy, provided that Borrower contests the same diligently and in good faith and provides Lender with adequate security, in Lender's reasonable judgment, against the enforcement thereof or loss therefrom during such contest. Borrower acknowledges that certain encumbrances may present such a threat to Lender's security that Lender need not allow Borrower to contest the same or may require Borrower to deliver to Lender cash, or its equivalent, equal in value to the encumbrance.

3.3 Restrictions on Transfers. Except as permitted by the Loan Agreement, Borrower will not without the prior written approval of Lender in each instance:

- (a) Convey, assign, or permit the conveyance or assignment of all or any part of any legal or beneficial interest in the Mortgaged Property, except that Borrower may replace items constituting part of the Collateral where such replacements are at least equal in function, quality and value; or
- (b) Collect funds for the occupancy or use of the Mortgaged Property or any part thereof from

any tenant or other occupant or user in excess of two month's rent and security deposit.

3.4 Leases

Borrower will:

- (a) Not enter into any lease or any agreement of any kind permitting present or future occupancy or use of the Mortgaged Property or any part thereof if to do so would constitute or create a default under any financial covenants set forth in the Loan Agreement without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed;
- (b) Not amend, terminate or take any action which would adversely affect Borrower's rights under, or cause or permit a termination of, any existing or future leases or agreements if to do so would constitute or create a default under any financial covenants set forth in the Loan Agreement without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed;
- (c) Punctually perform all the terms and conditions to be performed by Borrower under each lease and agreement to which the Mortgaged Property is at any time subject, which failure would entitle the tenant to withhold rent or terminate the lease;
- (d) Assign to Lender all leases and agreements and the rents and profits therefrom. Such assignments shall (i) be in form satisfactory to Lender, (ii) be legally sufficient to empower Lender to assign any such leases and agreements to any person acquiring title to all or any part of the Mortgaged Property by foreclosure proceedings or otherwise; (iii) shall provide that after foreclosure or delivery of a deed in lieu of foreclosure, no assignee of any lease or agreement so assigned shall be liable to account to Borrower for rents or profits thereafter accruing; and (iv) permit Lender after any Event of Default to collect rents and profits and to apply the same to the Loan Amount;
- (e) Promptly notify Lender of any material default of which Borrower has knowledge under any such lease or agreement;
- (f) Not permit any occupant of the Mortgaged Property to use any part thereof for the use, generation, treatment, storage, or disposal of Hazardous Materials except in compliance with all applicable laws and regulations.

3.5 Payments

Borrower will pay when due:

- (a) All principal, interest and other charges, if any, due under the Loan Documents;
- (b) Except as permitted in Section 3.2(c) of this Mortgage, all taxes, betterments, assessments and other governmental levies, water and sewer charges, insurance premiums, and other charges, to whomever assessed, whether on the Mortgaged Property or any interest therein, on the Loan Documents, or on any debt secured thereby; and
- (c) All federal, state and municipal taxes of whatever kind and nature which could, if unpaid, result in a lien on the Mortgaged Property or on any interest therein.

3.6 Operation of the Mortgaged Property

Borrower will:

- (a) Make such repairs and replacements and take such other steps as may be reasonably necessary to maintain the Mortgaged Property in at least as good condition as the same now are or hereafter may be put in while this Mortgage is outstanding, deterioration incidental to reasonable wear and tear and eminent domain takings only excepted, it being understood, however, that the foregoing exception for reasonable wear and tear shall not relieve Borrower from the obligation to repair or replace worn out, inoperative, obsolete or otherwise deficient elements of the Mortgaged Property that are reasonably required to maintain tenant occupancy of the Mortgaged Property;
- (b) Observe all federal, state and local laws, ordinances, rules and regulations relating to the Mortgaged Property or the use thereof;
- (c) Not, except as expressly approved by Lender, make or permit any material alteration to, any removal or demolition of, or any strip or waste of, the Mortgaged Property; and
- (d) Not permit the use of the Mortgaged Property for any purpose except uses permitted by law.

3.7 Taxes Account

Borrower will:

- (a) Upon request from Lender, deposit with Lender monthly, on each date on which a payment is due under the Note, or on such other date as Lender may specify, one-twelfth of such amount as Lender estimates will be required to pay all taxes, betterments, assessments and other governmental liens against the Mortgaged Property before the same become due. Lender shall not be deemed a trustee with respect to such deposits and shall not be required to keep said deposits separate from its general accounts or to pay interest thereon to Borrower unless required by law. If at any time Lender determines such Deposits are or will be insufficient to discharge the amounts actually required to pay such taxes, betterments, assessments and liens as may be due, any deficiency shall be promptly deposited by Borrower with Lender. If escrowing taxes pursuant hereto, Borrower shall transmit to Lender all bills for such taxes, betterments, assessments and liens as soon as received. Should the amount deposited with Lender by Borrower in any year exceed the amount required, such excess shall be applied to escrow payments for the succeeding year; and
- (b) If at any time Lender does not require the escrow of tax payments, furnish Lender with the receipted real estate tax and assessments bills for the Mortgaged Property within five (5) days after payment of the same on a timely basis.
- (c) After prior written notice to Lender, Borrower may at its own expense (as between Lender and Borrower), contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount, validity or application in whole or in part of any of the taxes, provided neither the Mortgaged Property nor any part thereof will be in danger of being sold, forfeited, terminated, cancelled or lost and Borrower shall have deposited with Lender adequate reserve for payment of such taxes, unless Borrower has paid all of such taxes.

3.8 Notices

Borrower will deliver to Lender promptly upon receipt of the same, copies of all notices, certificates and documents received by Borrower which materially affect the Mortgaged Property or its use or which make a claim or assertion which if true would cause Borrower to be in default under the Loan Documents.

3.9 Security Agreement Representations

The Collateral shall be used for business purposes and shall be kept at the Premises. When requested by Lender in writing, Borrower will:

- (a) Provide Lender with an inventory of the Collateral in form reasonably satisfactory to Lender;
- (b) Execute and deliver to Lender, in form appropriate for recording and filing, a first security agreement and financing statements relating to the Collateral. In connection with the grant of security interest made hereby, Borrower hereby authorizes Lender to file or cause to be filed one or more financing statements, amendments to financing statements and/or in lieu financing statements with any filing office for the purpose of perfecting or continuing the perfection of the security interest in the Collateral.
- (c) Provide to Lender such other assurances as may be required by Lender to establish Lender's first security interest in the Collateral.

3.10 Borrower's Obligation to Report Defaults

Borrower will promptly notify Lender upon becoming aware of any event which would constitute an Event of Default hereunder, or which would constitute an Event of Default hereunder if it were to continue after any notice required.

Article IV. Insurance

4.1 Coverage

Borrower shall obtain and keep in force insurance as to the Mortgaged Property at all times during the term of the Loan as required under the Loan Agreement.

4.2 Co-Insurance Provision

The terms of all insurance policies shall be such that no co-insurance provisions apply. If, however, a policy does contain a co-insurance provision, Borrower shall insure the Mortgaged Property in an amount sufficient to prevent the application of the co-insurance provisions.

4.3 Insurers

All insurance shall be written by insurers qualified to do business in Massachusetts having a general policy rating of "A" or better and a financial class of VI or better given by A.M. Best Company, Inc. All Evidence of insurance shall be deposited with Lender. Borrower will update Lender on any insurance renewals.

4.4 Expiration of Insurance

Not fewer than fifteen (15) days prior to the expiration dates of the expiring policies, Borrower shall deliver to Lender evidence of insurance replacing the expiring policies and bearing notations evidencing the payment of premiums or accompanied by other evidence of such payment satisfactory to Lender.

4.5 Policy Provisions

All insurance shall be in form acceptable to Lender where applicable, shall provide that any proceeds shall be first payable to Lender, as its interests may appear, pursuant to a non-contributory standard mortgagee endorsement, and shall provide that twenty (20) days' written notice must be given to Lender before any such policy can be canceled, modified or renewal thereof refused. Borrower shall perform all the conditions of all insurance policies covering the Mortgaged Property and, in case of any loss or damage, Borrower will give immediate notice to Lender, who may make proof of loss or claim. Each insurance company is hereby authorized and directed to make payment for such loss directly to Lender instead of to Borrower in case of Borrower's physical damage insurance.

4.6 Application of Proceeds

The insurance proceeds for casualty shall be adjusted by and paid to Lender. Subject to the terms of the Loan Agreement, after deducting all costs and expenses, including reasonable attorneys' fees incurred by Lender in connection therewith, Lender shall release such portion of the proceeds to Borrower as is necessary to restore the Mortgaged Property to its prior condition insofar as is practicable, upon such terms and conditions as Lender deems appropriate. Lender shall apply the balance thereof, if any, to the Loan Amount. If any insurer of the Mortgaged Property denies liability, Borrower shall not be relieved of its obligation to restore the Mortgaged Property. If at any time Lender determines that the amount of proceeds is insufficient to complete restoration, Borrower shall deposit the amount of such deficiency with Lender within thirty (30) days after notice from Lender. All plans and specifications for the restoration shall be approved by Lender prior to commencement of the restoration. Except to the extent insurance proceeds are actually retained by Lender and applied to the Loan Amount, nothing herein shall be deemed to relieve Borrower from the obligation to restore all damage and destruction to the Mortgaged Property, regardless of whether or not sufficient proceeds are available. No such retention and application shall be deemed a cure or waiver of any Event of Default under this Mortgage.

Article V. Eminent Domain

5.1 Taking

In case of any condemnation for public use of, or any damage by reason of the action of any governmental entity or authority to, all or any part of the Mortgaged Property (a "Taking"), or the commencement of any proceedings or negotiations which might result in a Taking or a settlement in lieu thereof, Borrower shall promptly give written notice thereof to Lender, describing the nature and extent of the Taking or the nature of such proceedings or negotiations. Lender may, at its option, appear in any such proceedings or negotiations, and Borrower shall promptly give Lender copies of all notices, pleadings, determinations and other papers. Borrower shall in good faith and with due diligence file and prosecute Borrower's claim for any award or payment on account of any Taking. Borrower shall not settle any such claim without Lender's prior written consent.

5.2 Application of Award

Except as permitted in the Loan Agreement, Borrower hereby assigns to Lender all of Borrower's rights in any award received in connection with a Taking or any settlement received in lieu thereof and authorizes such awards and settlements to be paid directly to Lender. If Borrower collects any such award, Borrower shall promptly pay the same to Lender. Any such award, after deducting therefrom all costs and expenses, including reasonable attorneys' fees incurred by Lender in connection therewith, shall be applied as follows:

- (a) In the case of a partial Taking, if no Event of Default exists and Lender reasonably determines that the Mortgaged Property can be economically restored and operated in accordance with the Loan Documents, Lender shall release to Borrower on terms and conditions satisfactory to Lender so much of such award, reduced as provided above, as may be necessary to restore the Mortgaged Property, and the balance, if any, shall be applied to the Loan Amount; and
- (b) In the case of a complete Taking, or in the case of a partial taking, if an Event of Default exists or if Lender reasonably determines that the Mortgaged Property cannot be economically restored and operated in accordance with the Loan Documents, Lender may, at its option, apply such award, reduced as provided above, to the reduction of balance to be paid to Borrower.

Article VI. Defaults and Remedies

6.1 Events of Default

The occurrence of any Event of Default under the Loan Agreement shall constitute an "Event of Default" under this Mortgage after the expiration of any applicable notice or cure period.

6.2 Remedies

After an Event of Default, Lender may, at its option and without notice:

- (a) Exercise any of Lender's remedies provided in any of the Loan Documents;
- (b) Declare the Loan Amount immediately due and payable;
- (c) Apply to the Loan Amount any deposits or other sums credited by or due from Lender to Borrower;
- (d) Take possession of the Mortgaged Property and operate the Mortgaged Property as a mortgagee in possession with all the same powers as could be exercised by a receiver (the availability of this remedy shall not impair the Lender's remedies under any other Loan Document such as the Collateral Assignment of Leases and Rents);
- (e) Make any payments required to be made by Borrower under the Loan Documents. The amount of all such payments shall be immediately due and payable by Borrower, and until paid, shall be added to the Loan Amount and secured by the Loan Documents with the same priority as the face amount of the Mortgage. Such payments may include, but are not limited to, payments for taxes and other governmental levies, water rates, insurance

premiums, maintenance, repairs or improvements of the Mortgaged Property;

- (f) Perform any and all obligations of Borrower under the Loan Documents without waiving any rights or releasing Borrower from any obligations thereunder;
- (g) Exercise any of the rights and remedies of a secured party under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts, including but not limited to:
 - (i) Either personally or by means of a receiver, take possession of all or any of the Collateral and exclude therefrom Borrower, and all others claiming under Borrower, and thereafter store, use, operate, manage, make repairs, replacements, alterations and additions to and exercise all rights and powers of Borrower with respect to the Collateral or any part thereof;
 - (ii) Without notice to or demand upon Borrower, make such payments and do such acts as Lender may deem necessary to protect its security interest in the Collateral, including without limitation, paying, contesting or compromising any encumbrance or lien which is prior to the security interest granted hereunder, and in exercising any such powers to pay all expenses incurred in connection therewith;
 - (iii) Require Borrower to assemble the Collateral or any portion thereof, at a place designated by Lender and reasonably convenient to both parties, and promptly to deliver possession of such Collateral to Lender or an agent designated by Lender. Lender and its agents shall have the right to enter upon any of Borrower's property to exercise Lender's rights hereunder;
 - (iv) Sell, lease or otherwise dispose of the Collateral at private or public sale, with or without having the Collateral at the place of sale, and upon such terms and in such manner as Lender may determine. Lender may be a purchaser at such sale; and
 - (v) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender shall give Borrower at least five (5) days' prior written notice of the time and place of any private or public sale of the Collateral or other intended disposition thereof;
- (h) Exercise the STATUTORY POWER OF SALE and, in connection therewith, retain one percent (1%) of the gross proceeds of sale as compensation therefor; and
- (i) Take such other actions or proceedings as Lender deems necessary or advisable to protect its interest in the Mortgaged Property.

6.3 Statutory Power of Sale

This Mortgage is on the STATUTORY CONDITION and upon the further condition that all agreements of the Borrower contained in the Loan Documents be fully performed for any breach of which Lender shall have the STATUTORY POWER OF SALE. In the event of the exercise of the STATUTORY POWER OF SALE, Lender may foreclose on and sell all or any part of the Mortgaged Property, and thereafter Lender shall continue to have the STATUTORY POWER OF SALE so long as any portion of the Mortgaged Property remains subject to this Mortgage.

6.4 No Waiver or Release

No delay or omission on the part of Lender in exercising any right hereunder or under the Loan Documents shall operate as a waiver of such right or of any other right, and a waiver of any such right on any one occasion shall not be construed as a bar to or a waiver of any such right on any other occasion. No sale of any of the Mortgaged Property, no forbearance on the part of Lender, no release or partial release of any of the Mortgaged Property, and no extension, whether oral or in writing, of the time for the payment of the whole or any part of the Loan Amount or any other indulgence given by Lender to Borrower or any other person or entity, shall operate to release or in any manner affect the lien of the Mortgage or the liability of Borrower, notice of any such extensions or indulgences being hereby waived by Borrower.

6.5 Cumulative Rights and Remedies

Lender shall have the right to exercise any and all remedies under the Loan Documents until all Events of Default have been cured, and such remedies may be exercised individually, sequentially or in concert, all such remedies being cumulative, the exercise of one not being deemed a waiver of any of the others or a cure of any default.

6.6 Borrower's Waiver of Certain Rights

Borrower waives any rights it may have to receive notice of any action or proceeding to enforce Lender's rights under any Loan Document other than the notices herein provided for. In the event of foreclosure, Borrower will not claim the benefit of any law now or hereafter in force providing for any appraisal, stay, extension or redemption. Borrower waives all rights of redemption, appraisal, stay of execution, notice of acceleration and marshaling.

6.7 Effect of Exercise of Rights

Any action taken or sums paid, and any costs or expenses incurred by Lender, including attorneys' fees, pursuant to Lender's exercise of its rights, shall as between the parties be deemed valid, so that in no event shall the necessity or validity of any such action or payments, costs or expenses be disputed.

6.8 Change in Law

If any law as hereafter enacted by the Commonwealth of Massachusetts changes in any way the laws applicable to mortgages or the taxation thereof or the manner of collection of any such taxes, so as to affect adversely and materially any rights of Lender or any provisions hereof, the Loan Amount hereby secured shall, at the election of the Lender, become due and payable on demand; provided, however, that if the Borrower can lawfully pay any amount or promptly perform any obligation, and forthwith pays or performs the same, so that any such change in law does not adversely and materially affect the rights of the Lender, the Loan Amount shall not be accelerated.

Article VII. General

7.1 Lender's Expenses

To the extent permitted by law, if Lender retains an attorney to collect any sums due under this Mortgage, enforce any of the provisions hereof, or otherwise protect Lender's interests, Borrower agrees to pay Lender, on demand, all costs and expenses reasonably incurred in connection therewith, including all court costs and reasonable attorney's fees, whether or not suit is brought or prosecuted to completion, together with interest thereon at the rate applicable under the Note to amounts past due.

7.2 Indemnification

Borrower agrees to hold harmless and indemnify Lender from all liability, loss, cost, damage, and expense from any claim for damage to property or death or injury to persons which may arise in connection with the construction, use, or occupancy of the Mortgaged Property, not otherwise covered by insurance, including any liability, loss, cost, damage or expense arising from a violation of the Superfund and Hazardous Waste Laws except as such liability shall be the result of the gross negligence, bad faith or willful misconduct of Lender.

7.3 Joint and Several Liability

If more than one party executes this Mortgage the term Borrower shall mean all of them, and each of them shall be jointly and severally liable hereunder.

7.4 Captions

Captions are used for convenience of reference only and are not to be construed as part of the terms of this Mortgage.

7.5 Severability

The invalidity of any provisions of this Mortgage shall in no way affect the validity of any other provision.

7.6 Singular and Plural

Where required by the context, the singular shall include the plural and the plural shall mean the singular.

7.7 Gender

The masculine, feminine and neuter forms shall be interpreted interchangeably wherever the text requires.

7.8 Successors and Assigns

This Mortgage is binding upon and shall inure to the benefit of the parties hereto and their heirs, successors, personal representatives, and assigns.

7.9 Notices

Any notice, request, demand or other communication required or permitted hereunder shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail, postage prepaid or telegram sent to the intended addressee at the applicable address set forth on Page 1 hereof or to such different address as either Borrower or Lender shall have designated by written notice to the other sent in accordance herewith. Such notices shall be deemed given when received or, if earlier, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, four (4) days after deposit therein.

7.10 Governing Law

The provisions hereof shall be construed in accordance with the laws of the Commonwealth of Massachusetts.

7.11 Jurisdiction

Borrower submits to personal jurisdiction in the Commonwealth of Massachusetts and waives any and all personal rights to object to such jurisdiction. Borrower agrees that service of process may be made and personal jurisdiction obtained by serving Borrower at the address stated on the first page hereof.

7.12 Changes in Writing

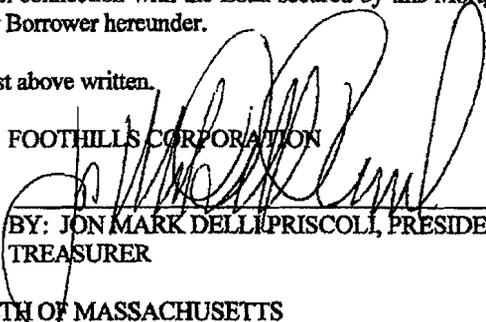
This Mortgage may not be changed, waived, or terminated except in a writing signed by the party against whom enforcement of the change, waiver, or termination is sought.

7.13 Other Representations and Warranties

All statements contained in any loan application, certificate or other instrument delivered by Borrower to Lender or Lender's representatives in connection with the Loan secured by this Mortgage shall constitute representations and warranties made by Borrower hereunder.

EXECUTED under seal as of the date first above written.

FOOTHILLS CORPORATION

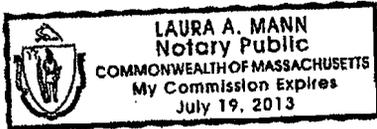

BY: JON MARK DELLI PRISCOLI, PRESIDENT AND
TREASURER

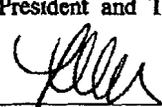
COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

March 30, 2011

Then personally appeared, before me, the undersigned notary public, personally appeared the above-named JON MARK DELLI PRISCOLI, proved to me to be the person whose name is signed on the preceding document, through satisfactory evidence of identification, which was a valid driver's license, and acknowledged the foregoing to be his free act and deed as President and Treasurer of FOOTHILLS CORPORATION.




Notary Public: LAURA A. MANN
My Commission Expires: 7/19/13

**EXHIBIT A
TO
MORTGAGE AND SECURITY AGREEMENT**

The land with the buildings and improvements thereon located at 19 Brigham Street, Marlborough, Middlesex County, Massachusetts, being shown as Lot 1A on a plan entitled "Plan of Land in Marlborough Mass." owned by Assabet Realty Trust, Book 15376, Page 539-541, Scale: 1" = 40', dated June 13, 1984, by Highland Land Surveyors, Inc., 69 Maple Street, Marlboro, Massachusetts, being recorded with the Middlesex South District Registry of Deeds as Plan Number 1622 of 1985 in Book 16604, Page 454, and to which plan reference may be had for a more complete and accurate description of Lot 1A.

Said Lot 1A contains 166,763± s. f. or 3.828 acres, more or less, according to said plan.

Subject to easements and restrictions of record, insofar as the same are now in force and applicable.

For title, see Deed dated June 22, 1995 and recorded with said Deeds in Book 25432, Page 269.

S/MTG/DCU/FOOTHILLS

EXHIBIT A TO MORTGAGE AND SECURITY AGREEMENT
FOR THE YEAR 1995
16710 6/14 1995

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Page: 1 of 8 03/31/2011 11:09 AM

COLLATERAL ASSIGNMENT OF LEASES AND RENTS

Definitions

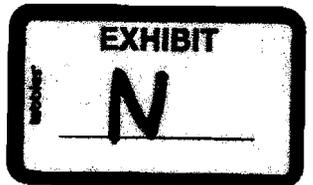
The terms used below shall have the meanings there indicated. All capitalized terms used herein and not otherwise defined herein shall have the meanings as set forth in the Loan Agreement and Mortgage.

19 Brigham Street, Marlborough, MA

- Date: March 30, 2011
- Lender: / Digital Federal Credit Union
A federally chartered credit union
220 Donald Lynch Boulevard
Marlborough, MA 01752
- Borrower: / Foothills Corporation, a Massachusetts corporation duly organized and existing, having an address of 929 Boston Post Road East, Marlborough, Massachusetts 01752
- Loan Amount: \$2,925,000.00
- Mortgaged Property: The Mortgaged Property as defined in the Mortgage and Security Agreement by Borrower to the Lender of even date and recorded herewith (the "Mortgage") covering property located at 19 Brigham Street, Marlborough, Massachusetts, as more particularly described in the Mortgage securing the Loan Amount and on Exhibit A attached hereto.
- Loan Agreement: A certain Term Loan Agreement of even date herewith by and between Borrower and Lender.
- Assigned Leases: All of Borrower's right, title and interest in and to and all leases or occupancy agreements of whatever name or description and all extensions and renewals thereof heretofore or hereafter entered into with respect to the Mortgaged Property or any part thereof.
- Assigned Rents: All of Borrower's right, title and interest in and to the rents, issues and profits from the Assigned Leases, collected or to be collected, arising or issuing out of the Mortgaged Property or any part thereof and all other rents, issues, and profits from the Mortgaged Property.

1. Assignment and Grant of Security Interest

Borrower, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, transfers and assigns to Lender all of Borrower's right, title and interest in and to the Assigned Leases and the Assigned Rents, it being intended that this is a present assignment and not a conditional assignment to secure all of Borrower's obligations to Lender, now existing or hereafter arising, including, but not limited to, Borrower's obligations to Lender under the Loan Documents. Upon



payment in full of all amounts due under the Loan Documents, this Assignment shall be void and of no effect.

2. Borrower's Agreements and Warranties

Borrower warrants and agrees:

- (a) that Borrower is the sole owner of the entire landlord's interest in the Assigned Leases and the Assigned Rents and that Borrower has not sold, assigned, mortgaged or pledged the Assigned Leases or Assigned Rents;
- (b) that, to the best of Borrower's knowledge, the Assigned Leases are valid and enforceable and have not been amended in any manner whatsoever except as herein set forth;
- (c) that, to the best of Borrower's knowledge, the tenants of the Assigned Leases are not in default under any of the provisions thereof;
- (d) that no rent reserved in the Assigned Leases has been assigned or anticipated and that no rent for any period subsequent to the date of this Assignment has been collected in advance of the time when the same became due under the Assigned Leases;
- (e) to observe and perform all the obligations imposed upon the landlord under the Assigned Leases and not to do or permit to be done anything to impair the enforceability of the Assigned Leases;
- (f) not to collect any of the Assigned Rents in advance of the time when the same shall become due (other than any security deposits);
- (g) not to subordinate the Assigned Leases to any mortgage or other encumbrance or permit or agree to such subordination without Lender's prior written consent;
- (h) not to amend the Assigned Leases or give any consent or exercise any option required or permitted by the Assigned Leases without Lender's prior written consent;
- (i) not to terminate the Assigned Leases nor accept a surrender thereof nor convey or transfer any interest therein or in the Mortgaged Property so as to effect directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, the landlords and tenants thereunder;
- (j) not to convey, transfer, or assign the Assigned Leases or any interest therein without Lender's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed;
- (k) not to allow, permit, or suffer any subletting under any of the Assigned Leases without Lender's prior written consent;
- (l) not to amend the terms of any guaranty of the Assigned Leases nor terminate any guaranty of the Assigned Leases without the prior written consent of Lender;
- (m) to assign and transfer to Lender any and all subsequent leases, rents, issues and profits of all or any part of the Mortgaged Property and to execute and deliver at the request of

Lender all such further assurances and assignments as Lender shall from time to time require;

- (n) to enforce all provisions of the Assigned Leases and cause the tenants thereof to comply with said provisions; and
- (o) Borrower shall not permit or suffer any occupant of the Mortgaged Property to use all or any part thereof for the use, generation, treatment, storage, or disposal of Hazardous Materials without the prior written consent of Lender, and then only to the extent that the Hazardous Materials are licensed and approved in accordance with all applicable laws and regulations and are in compliance with the terms of Lender's written approval.

At the option of Lender, all future leases of the Mortgaged Property shall require tenants to:

- (p) provide Borrower and Lender with copies of all notices, including, without limitation, all notices of violations and notices of responsibility or demand for action received from any federal, state or local authority or official in connection with Hazardous Materials in or on the leased premises or Mortgaged Property; and
- (q) indemnify and hold Borrower and Lender and their heirs, successors and assigns harmless from and against all loss, cost, liability, damage, and expense including attorneys' fees and the costs of litigation, arising from any Hazardous Materials in or on the leased premises or Mortgaged Property due to any act or omission of tenant.

3. Revocable License to Collect Rents

So long as no Event of Default exists under the Loan Documents, or in the performance of any obligations contained in the Assigned Leases, Borrower shall have a revocable license to collect the Assigned Rents.

4. Default by Borrower

The occurrence of any one or more of the following events shall constitute an "Event of Default":

- (a) default by Borrower under any of the provisions of this Assignment, which default continues for more than fifteen (15) days; and
- (b) an Event of Default under any other Loan Document.

5. Lender's Remedies

On the occurrence of an Event of Default, Lender may at any time thereafter exercise any or all of the following remedies without notice and without regard to the adequacy of the security for the obligations secured hereby:

- (a) either in person or by agent, have a receiver appointed by a court;
- (b) revoke Borrower's license to collect the Assigned Rents and in its own name, demand, sue for, or otherwise collect and receive all Assigned Rents, including those past due and unpaid, without taking possession of the Mortgaged Property, any statute, law, custom, or use to the contrary notwithstanding, and apply the Assigned Rents to the payment of the

indebtedness secured hereby and by the Note, Mortgage and other Loan Documents, together with all costs and attorneys' fees, and return the balance, if any, to Borrower;

- (c) either in person or by agent, with or without bringing any action or proceeding, take possession of the Mortgaged Property, and have, hold, manage, lease and operate the same for such period of time and on such terms as Lender in its sole discretion may deem appropriate;
- (d) make from time to time all alterations, renovations, repairs, or replacements to the Mortgaged Property as may seem proper to Lender;
- (e) terminate any or all of the Assigned Leases and relet the Mortgaged Property on such terms and conditions as Lender deems appropriate except as such Assigned Leases are affected by executed Subordination, Non-Disturbance and Attornment Agreements executed with Lender;
- (f) assign, mortgage or pledge the Assigned Leases and assigned Rents;
- (g) apply the Assigned Rents to the payment of: (i) all expenses of managing the Mortgaged Property, including, the salaries of a managing agent and such other employees as Lender may deem necessary or desirable, (ii) all expenses of operating and maintaining the Mortgaged Property, including, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which Lender may deem necessary or desirable, and (iii) the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Mortgaged Property and reletting the same including broker's fees; and (iv) the indebtedness secured hereby and by the Note, Mortgage and other Loan Documents, together with all costs and attorneys' fees, in such order of priority as Lender in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding.

Lender may exercise any or all of its remedies hereunder prior to, simultaneously with, or subsequent to the exercise of any rights under the other Loan Documents.

6. No Liability of Lender

Borrower agrees that:

- (a) Lender shall not be liable for any loss sustained by Borrower from Lender's failure to let the Mortgaged Property after default or from any other act or omission of Lender in managing the Mortgaged Property after default unless such loss is caused by the willful misconduct and bad faith of Lender;
- (b) Lender shall not be liable for any waste committed on the Mortgaged Property by the tenants or any other parties, or for any dangerous or defective condition of the Mortgaged Property or for any damage to property or injury or death to any person resulting from the management, upkeep, repair or control of said Mortgaged Property unless such loss is caused by the willful misconduct or gross negligence of Lender; and
- (c) Prior to Lender actually entering and taking possession of the Mortgaged Property, this Assignment shall not place responsibility for the control, care, management or repair of

the property upon Lender nor obligate Lender to comply with any of the provisions of the Assigned Leases.

7. Indemnification

Borrower shall indemnify Lender against and hold Lender harmless from, any and all liability, loss, cost, damage or expense, including reasonable attorney's fees, which may be incurred under the Assigned Leases or under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against 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 Assigned Leases and Borrower shall reimburse Lender therefor immediately upon demand and upon the failure of Borrower so to do Lender may, at its option, declare all sums secured hereby and by the Note, Mortgage and other Loan Documents immediately due and payable.

8. Rent Payments to Lender

Borrower directs the tenants named in the Assigned Leases, upon receipt from Lender of written notice that a default exists, to pay to Lender all Assigned Rents and to continue to do so until otherwise notified by Lender. No person making a payment to Lender shall have any obligation to inquire into the actual existence of an Event of Default claimed by Lender or to the application of the Assigned Rents. The certificate, letter, or statement of any officer, agent or attorney of Lender that any part of the indebtedness remains unpaid shall be conclusive evidence of the validity, effectiveness and containing force of this Assignment and any person may rely thereon.

9. Other Security

Lender may take or release other security for the performance of the obligations of Borrower under the Note, Mortgage and the other Loan Documents, may release any party primarily or secondarily liable therefor, and may apply any other security held by it to the satisfaction thereof without prejudice to any of its rights under this Assignment.

10. Lender's Rights of Assignment; Rights of Assignees

Lender may assign to any subsequent holder of the Note or Mortgage, or to any person acquiring title to the Mortgaged Property, all of the Lender's right, title and interest in any Assigned Leases and Assigned Rents. No assignee shall have any liability for any obligation which accrued under the Assigned Leases prior to the assignment to said assignee nor shall such assignee have any obligation to account to Borrower for any Assigned Rents which accrued prior to such assignment. After Borrower's right, title and interest in the Mortgaged Property has been foreclosed or otherwise terminated, no assignee of Borrower's interest in the Assigned Leases and Assigned Rents shall be liable to account to Borrower for any rents, issues or profits thereafter accruing.

11. No Waiver By Lender

Nothing contained in this Assignment and no act done or omitted by Lender pursuant to this Assignment nor the collection of any Assigned Rents shall be deemed to be a waiver by Lender of its rights and remedies under the Note, Mortgage, or other Loan Documents nor a waiver of any default by Borrower thereunder.

12. Mortgage Governs

In case of any conflict between this Assignment and the Mortgage, the Mortgage shall govern.

13. Joint and Several Liability

If more than one party executes this Assignment, the term Borrower shall mean all of them, and each of them shall be jointly and severally liable hereunder.

14. Captions

Captions are used for convenience of reference only and are not to be construed as part of the terms of this Assignment.

15. Severability

The invalidity of any provision of this Assignment shall in no way affect the validity of any other provision.

16. Singular and Plural

Where required by the context the singular shall include the plural and the plural shall mean the singular.

17. Gender

The masculine, feminine and neuter forms shall be interpreted interchangeably whenever the context requires.

18. Successors and Assigns

This agreement is binding upon and shall insure to the benefit of the parties hereto and their heirs, successors, personal representatives, and assigns.

19. Notices

Any notice, request, demand or other communication required or permitted hereunder shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail, postage prepaid or telegram sent to the intended addressee at the applicable address set forth on Page 1 hereof or to such different address as either Borrower or Lender shall have designated by written notice to the other sent in accordance herewith. Such notices shall be deemed given when received or, if earlier, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, two days after deposit therein.

20. Governing Law

This Assignment shall be interpreted in accordance with and governed by the law of the Commonwealth of Massachusetts.

21. Jurisdiction

Borrower submits to personal jurisdiction in the Commonwealth of Massachusetts and waives any and all personal rights to object to such jurisdiction. Borrower agrees service of process may be made and personal jurisdiction obtained by serving Borrower at the address stated on the first page hereof.

22. Changes in Writing

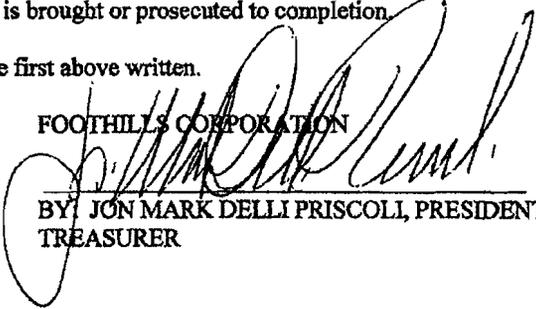
This Assignment may not be changed, waived, or terminated except in a writing signed by the party against whom enforcement of the change, waiver, or termination is sought.

23. Cost and Attorney's Fees

To the extent permitted by law, if Lender retains an attorney to collect any sums due under this agreement, enforce any of the provisions hereof, or otherwise protect Lender's interests, Borrower agrees to pay Lender, on demand, all costs and expenses in connection therewith including all court costs and reasonable attorney's fees whether or not suit is brought or prosecuted to completion.

EXECUTED under seal as of the date first above written.

FOOTHILLS CORPORATION

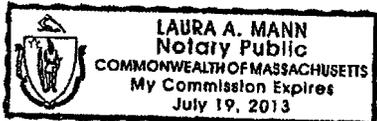

BY: JON MARK DELLI PRISCOLI, PRESIDENT AND
TREASURER

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

March 30, 2011

Then personally appeared, before me, the undersigned notary public, personally appeared the above-named JON MARK DELLI PRISCOLI, proved to me to be the person whose name is signed on the preceding document, through satisfactory evidence of identification, which was a valid driver's license, and acknowledged the foregoing to be his free act and deed as President and Treasurer of FOOTHILLS CORPORATION.




Notary Public: LAURA A. MANN
My Commission Expires: 7/19/13

**EXHIBIT A
TO
MORTGAGE AND SECURITY AGREEMENT**

The land with the buildings and improvements thereon located at 19 Brigham Street, Marlborough, Middlesex County, Massachusetts, being shown as Lot 1A on a plan entitled "Plan of Land in Marlborough Mass." owned by Assabet Realty Trust, Book 15376, Page 539-541, Scale: 1" = 40', dated June 13, 1984, by Highland Land Surveyors, Inc., 69 Maple Street, Marlboro, Massachusetts, being recorded with the Middlesex South District Registry of Deeds as Plan Number 1622 of 1985 in Book 16604, Page 454, and to which plan reference may be had for a more complete and accurate description of Lot 1A.

Said Lot 1A contains 166,763± s. f. or 3.828 acres, more or less, according to said plan.

Subject to easements and restrictions of record, insofar as the same are now in force and applicable.

For title, see Deed dated June 22, 1995 and recorded with said Deeds in Book 25432, Page 269.

S/MTG/DCU/FOOTHILLS-CA

3/17/2014

For Sale	For Lease	Sales Comps	Property Records	Local Info	Add Listing	My LoopNet
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41 Brigham St, Marlborough, MA, 01752-5143 - Available for Lease

Industrial For Lease

View this active lease listing or start a search to find more properties for lease.

For Sale **For Lease**

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Brigham Business Park

41 Brigham St, Marlborough, MA 01752-5143

\$7.50 /SF/Year

11,850 SF | Industrial

Presented by



Request Additional Information

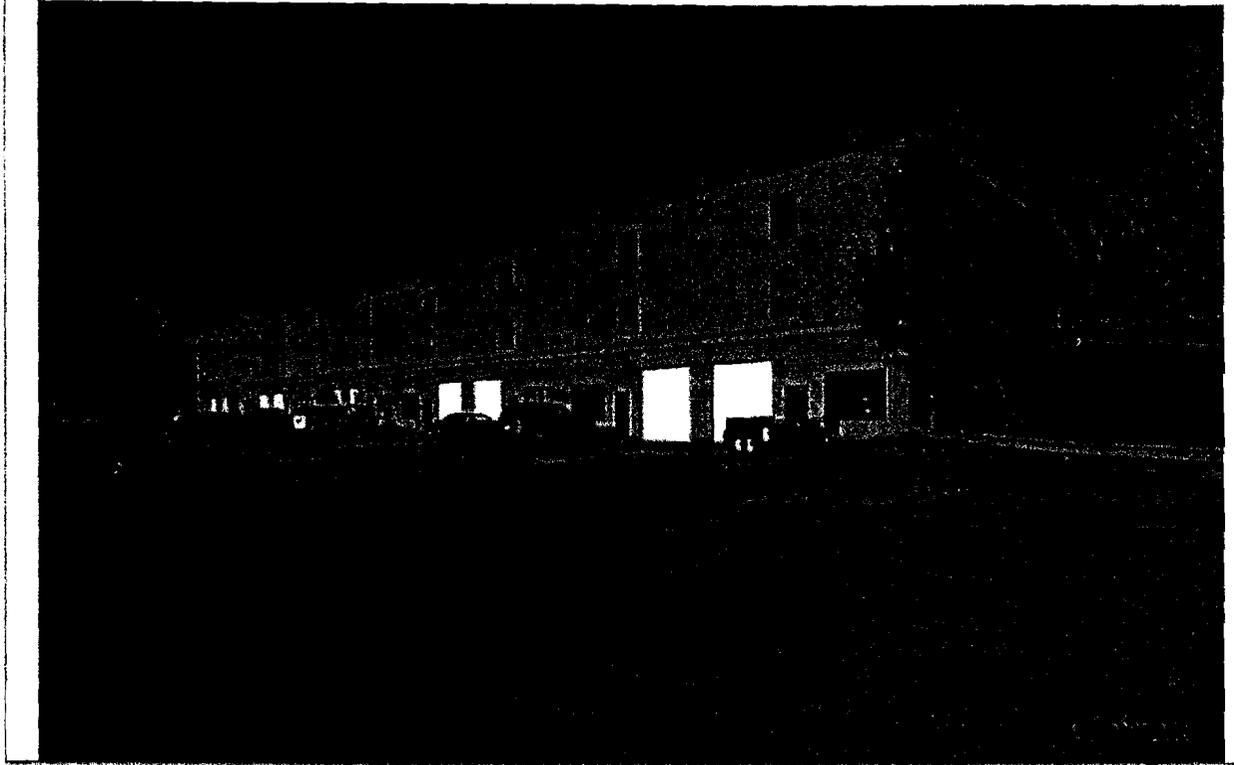
Bill Sullivan
(617) 758-8276

Phone - - ext

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Industrial Property For Lease

[Get Financing](#)

Total Space Available:	11,850 SF	Building Size:	44,950 SF
Rental Rate:	\$7.50 /SF/Year	Year Built:	1986
Min. Divisible:	1,500 SF	Lot Size:	9.90 AC
Max. Contiguous:	5,750 SF	Zoning Description:	industrial
Property Type:	Industrial	Listing ID	18106396
Property Sub-type:	Warehouse	Last Updated	2 days ago

[Find Out More...](#)

Utilities

- Electricity/Power - 200-200a/208-208v 1p 1w

5 Spaces Available

Display Rental Rate as Entered ▼

Space 13	Space Available:	2,300 SF
	Rental Rate:	\$7.50 /SF/Year
	Space Type:	Warehouse
	Lease Type:	NNN
	Date Available:	Mar 2007
	Lease Term:	60 Months
	No. Parking Spaces:	45
	No. Drive In / Grade-Level Doors:	1
	Clear Ceiling Height:	12 ft.
	Features:	Heating is available - Gas
	\$6.50 NNN for As Is deals. Office area and large drive-in door.	

Space 14	Space Available:	3,450 SF
	Rental Rate:	\$7.50 /SF/Year
	Space Type:	Warehouse
	Max. Contiguous:	5,750 SF
	Lease Type:	NNN
	Lease Term:	60 Months
	No. Parking Spaces:	45
	Clear Ceiling Height:	12 ft.
	Features:	Heating is available - Gas
	\$6.50 NNN for As Is deals.	

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Space 15	Space Available:	2,300 SF
	Rental Rate:	\$7.50 /SF/Year
	Space Type:	Warehouse
	Max. Contiguous:	5,750 SF
	Lease Type:	NNN
	Date Available:	Oct 2008
	Lease Term:	60 Months
	No. Parking Spaces:	45
	Clear Ceiling Height:	12 ft.
	Features:	Heating is available - Gas
		\$6.50 NNN for As Is deals.

Space 3	Space Available:	2,300 SF
	Rental Rate:	\$7.50 /SF/Year
	Space Type:	Warehouse
	Lease Type:	NNN
	Date Available:	Mar 2007
	Lease Term:	60 Months
	No. Parking Spaces:	45
	No. Drive In / Grade-Level Doors:	1
	Clear Ceiling Height:	12 ft.
	Features:	Heating is available - Gas
		\$6.50 NNN for As Is deals. 2 offices that are fully air-conditioned, 1 8x14 drive in door and wide open back warehouse space.

Space 2	Space Available:	1,500 SF
	Rental Rate:	\$7.50 /SF/Year
	Space Type:	Warehouse
	Lease Type:	NNN
	Date Available:	Jul 2013
	Lease Term:	60 Months
	No. Parking Spaces:	45
	Clear Ceiling Height:	12 ft.
	Features:	Heating is available - Gas

Description

Part of Brigham Business Park. Offers R&D, light manufacturing, assembly and distribution. On site management and maintenance. Located 2 miles from Rt 495, 3.5 miles from Rt. 9 and 4.5 miles from Rt. 90.

Located close to Routes 495, 20 & 85 in Marlborough, Massachusetts. Less than 5 miles from Route 9 and the MassPike.

Map of 41 Brigham St, Marlborough, MA 01752-5143

Hide Map



Research for 41 Brigham St, Marlborough, MA 01752-5143

- Demographics – Population, income & other demographics near 41 Brigham St
- Research Price – Recent sales of similar properties
- Property Record Data – Historical listings, current tax, mortgage, owners & tenant info for this building

Contact Listing Broker to find out more details.

More from:

Bill Sullivan

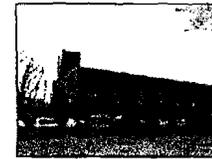
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License #74708



Strawberry Hill Bldg
Acton, MA
64,655 SF
\$16.50 /SF/Year



88 Waverly St
Framingham, MA
4,000 SF
\$14 /SF/Year



2 Hopping Brook Rd
Holliston, MA
Price Not Disclosed



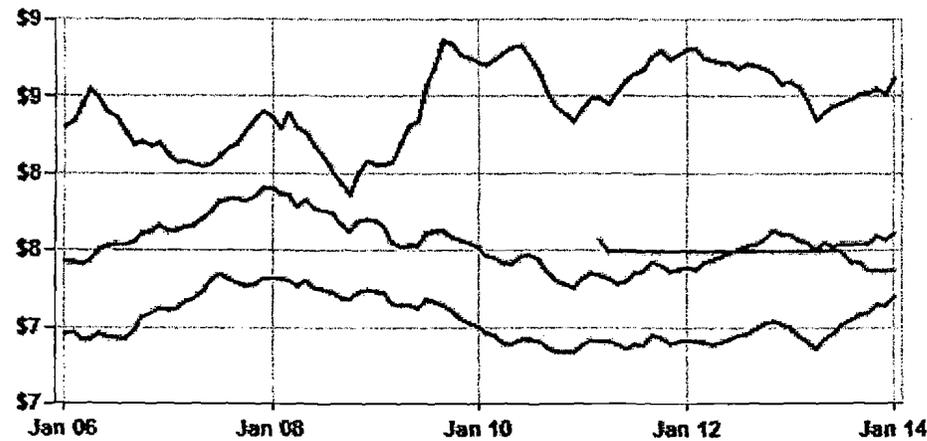
54 Cherry St
Hudson, MA
\$2,775,000
75,000 SF



54 Cherry St
Hudson, MA
75,000 SF
\$3.95 /SF/Year

Asking Price Index Trends for Marlborough, MA Industrial For Lease

Asking Rent Industrial for Lease Marlborough, MA (\$/SF/Year)



	Jan 14	vs. 3 mo. prior	Y-O-Y
State	\$7	+1.5%	+2.9%
Metro	\$8	+0.8%	+0.1%
County	\$9	+1.1%	+0.2%
City	\$7	0.0%	-1.7%

— State — Metro — County — City



[View Marlborough Market Trends for other property types for sale or lease. Learn more about the chart info.](#)

3/17/2014

41 Brigham St, Marlborough, MA, 01752-5143 - Warehouse Property for Lease on LoopNet.com

The information above has been obtained from sources believed reliable. While we do not doubt its accuracy we have not verified it and make no guarantee, warranty or representation about it. It is your responsibility to independently confirm its accuracy and completeness. Any projections, opinions, assumptions, or estimates used are for example only and do not represent the current or future performance of the property. The value of this transaction to you depends on tax and other factors which should be evaluated by your tax, financial, and legal advisors. You and your advisors should conduct a careful, independent investigation of the property to determine to your satisfaction the suitability of the property for your needs. TB-P

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Marlborough, MA

Lease: Industrial

41 Brigham St

41 Brigham St, Marlborough, MA 01752-5143

Summary

Map

Street View



3/3

Total Space Available: **11,850 SF**
 Rental Rate: **\$7.50/sf/year**
 \$0.63/sf/month
 \$937.50 - \$2,156.25/month
 Min. Divisible: 1,500 SF
 Max. Contiguous: 5,750 SF
 Listing Type: For Lease
 Property Type: Industrial
 Lot Size: 9.9 AC
 Date Available: Immediately
 Listing ID: NP18106396

Space Available

Presented by

**AVISON
YOUNG**

Avison Young

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Name First Name Last Name

Email

Phone - - ext

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13	Space Available:	2,300 SF
	Rental Rate:	\$1,437.50 /Month
	Lease Type:	NNN
	Min. Divisible:	2,300 SF
	Max. Contiguous:	2,300 SF

14	Space Available:	3,450 SF
	Rental Rate:	\$2,156.25 /Month
	Lease Type:	NNN
	Min. Divisible:	3,450 SF
	Max. Contiguous:	5,750 SF

15	Space Available:	2,300 SF
	Rental Rate:	\$1,437.50 /Month
	Lease Type:	NNN
	Min. Divisible:	2,300 SF
	Max. Contiguous:	5,750 SF

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Additional Options

- Print this Ad
- Demographics

3	Space Available:	2,300 SF
	Rental Rate:	\$1,437.50 /Month
	Lease Type:	NNN
	Min. Divisible:	2,300 SF
	Max. Contiguous:	2,300 SF

2	Space Available:	1,500 SF
	Rental Rate:	\$937.50 /Month
	Lease Type:	NNN
	Min. Divisible:	1,500 SF
	Max. Contiguous:	1,500 SF

Description

Part of Brigham Business Park. Offers R&D, light manufacturing, assembly and distribution. On site management and maintenance. Located 2 miles from Rt 495, 3.5 miles from Rt. 9 and 4.5 miles from Rt. 90.

Space Details

Ceiling Height: 12
A/C and Heating: Gas

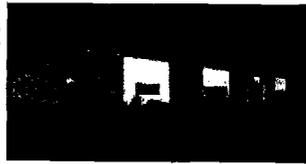
Building Details

Building Name: Brigham Business Park
Number of Floors: 3
Year Built: 1986
Percent Occupied: 73.6374

Parking Details

Parking Available: Yes
Spaces Provided: 45

Similar listings in Marlborough, MA



< 91 Bartlett Street
Marlborough, MA 01752
\$7.50/sf/year
2,500 - 11,800 SF



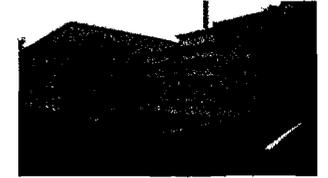
289 Elm Street
Marlborough, MA 01752
\$7.00/sf/year
2,000 - 8,500 SF



72 Jefferson Street
Marlborough, MA 01752
\$7.00/sf/year
3,750 SF



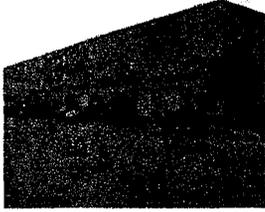
72 Jefferson Street
Marlborough, MA 01752
\$7.00/sf/year
4,500 SF



72 Jefferson Street
Marlborough, MA 01752
\$6.75/sf/year
10,000 SF

>

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MBLU : 104/2/111
Location: 41-53 BRIGHAM ST
Owner Name: MOUNTAINTOP CORP
Account Number: 00843835

Parcel Value

Item	Assessed Value
Buildings	3,553,400
Xtra Bldg Features	539,100
Outbuildings	40,600
Land	987,000
Total:	5,120,100

Owner of Record

MOUNTAINTOP CORP

Ownership History

Owner Name	Book/Page	Sale Date	Sale Price
MOUNTAINTOP CORP	24282/ 452	2/18/1994	1,012,000

Land Line Valuation

Size	Zone	Assessed Value
9.97 AC	I	987,000

Construction Detail

Building # 1	Grade Average	Stories: 2
STYLE Industrial Flex	Exterior Wall 1 Concr/Cinder	Roof Structure Flat
Occupancy 13	Interior Floor 1 Concrete	Heating Fuel Gas
Roof Cover Tar & Gravel	AC Coverage Partial	Building Use Industrial Warehouse
Heating Type Hot Air No Duc	Total Baths 0	1st Floor Use: 4010
Total Bedrms 00	Class Masonry	Plumbing Average
Heat/AC Split		
Partitions Average		

Building Valuation

Living Area: 42,752 square feet	Replacement Cost: 2,098,696	Year Built: 1990
Building Value: 1,658,000		

Extra Features

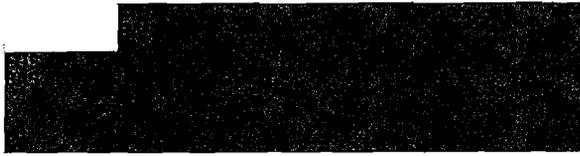
Code	Description	Units
SPR2	WET/CONCEALED	42750 S.F.
MEZ1	MEZZANINE-UNF	432 S.F.
MEZ1	MEZZANINE-UNF	648 S.F.
MEZ2	MEZZANINE-FIN	900 S.F.
MEZ3	W/PARTITIONS	12000 S.F.
MEZ3	W/PARTITIONS	12000 S.F.

Outbuildings

Code	Description	Units
PAV1	PAVING-ASPHALT	60000 S.F.

Building Sketch





Subarea Summary

Code	Description	Gross Area	Living Area
BAS	First Floor	21376	21376
FUS	Finished Upper Story	21376	21376



Construction Detail

Building # 2	
STYLE Industrial Flex	Grade Average
Stories: 1	Occupancy 6
Exterior Wall 1 Concr/Cinder	Roof Structure Flat
Roof Cover Tar & Gravel	Interior Floor 1 Concrete
Heating Fuel Gas	Heating Type Hot Air No Duc
AC Coverage Partial	Building Use Industrial Warehouse
Total Bedrms 00	Total Baths 0
1st Floor Use: 4010	Heat/AC Split
Class Masonry	

Building Valuation

Living Area: 60,682 square feet	Replacement Cost: 3,057,159	Year Built: 1996
Building Value: 1,895,400		

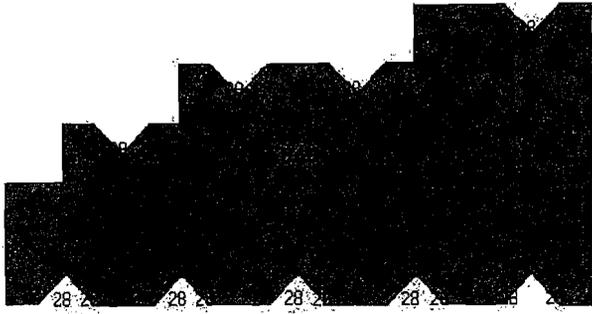
Extra Features

Code	Description	Units
SPR2	WET/CONCEALED	60600 S.F.
MEZ2	MEZZANINE-FIN	14000 S.F.

Outbuildings

Code	Description	Units
FN5	FENCE-10'CHAIN	220 L.F.
SHD5	SHED,COMM MAS	195 S.F.
SHD5	SHED,COMM MAS	195 S.F.
SHD5	SHED,COMM MAS	220 S.F.

Building Sketch



Subarea Summary

Code	Description	Gross Area	Living Area
BAS	First Floor	60682	60682

Powered by Vision Government Solutions, Inc.



MBLU : 104/ 2A / / /
Location: 19 BRIGHAM ST
Owner Name: FOOTHILLS CORP
Account Number: 00843700

Parcel Value

Item	Assessed Value
Buildings	2,482,800
Xtra Bldg Features	55,200
Outbuildings	31,200
Land	513,700
Total:	3,082,900

Owner of Record

FOOTHILLS CORP

Ownership History

Owner Name	Book/Page	Sale Date	Sale Price
FOOTHILLS CORP	25432/ 268	6/23/1995	1,260,000

Land Line Valuation

Size	Zone	Assessed Value
3.78 AC	I	513,700

Construction Detail

Building # 1	
STYLE Industrial Flex	Grade Average
Occupancy 6	Exterior Wall 1 Concr/Cinder
Roof Cover Tar & Gravel	Interior Floor 1 Concrete
Heating Type Hot Air No Duc	AC Coverage Partial
Total Bedrms 00	Total Baths 0
Heat/AC Split	Class Masonry
Partitlons Average	Stories: 1
	Roof Structure Flat
	Heating Fuel Gas
	Building Use Industrial Warehouse
	1st Floor Use: 4010
	Plumbing Average

Building Valuation

Living Area: 67,806 square feet	Replacement Cost: 3,355,125	Year Built: 1984
Building Value: 2,482,800		

Extra Features

Code	Description	Units
SPR2	WET/CONCEALED	67806 S.F.

Outbuildings

Code	Description	Units
PAV1	PAVING-ASPHALT	60000 S.F.
SGN3	W/INT LIGHTS	25 S.F.&HGT
SGN1	SIGN-1 SD W/M	60 S.F.&HGT
LT1	LIGHTS-IN W/PL	2 UNITS
LT2	W/DOUBLE LIGHT	1 UNITS

Building Sketch





Subarea Summary

Code	Description	Gross Area	Living Area
BAS	First Floor	67806	67806
CAN	Canopy	686	0
CLP	Loading Platform	110	0



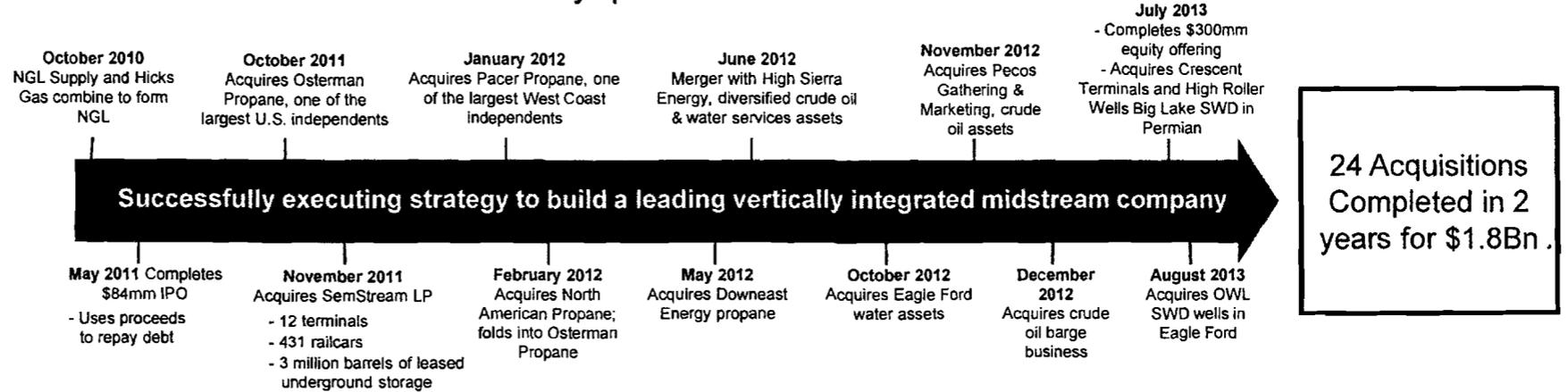
NGL Energy Partners LP

August 2013

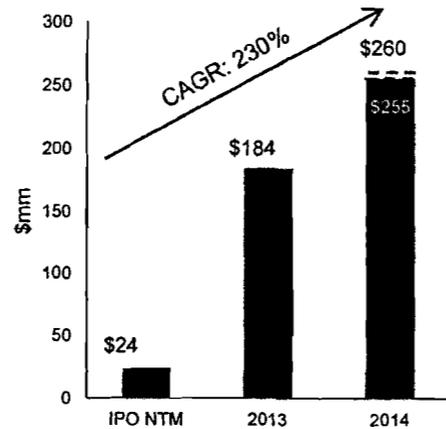
EXHIBIT
 R

Substantial Growth Since IPO in May 2011

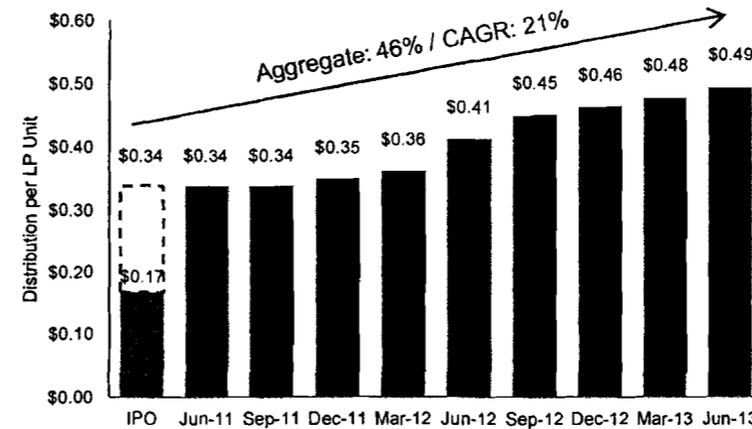
NGL has increased distribution every quarter since IPO



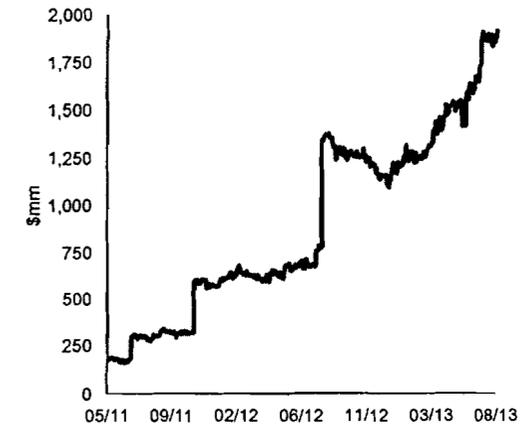
Adjusted EBITDA



Distribution / Unit

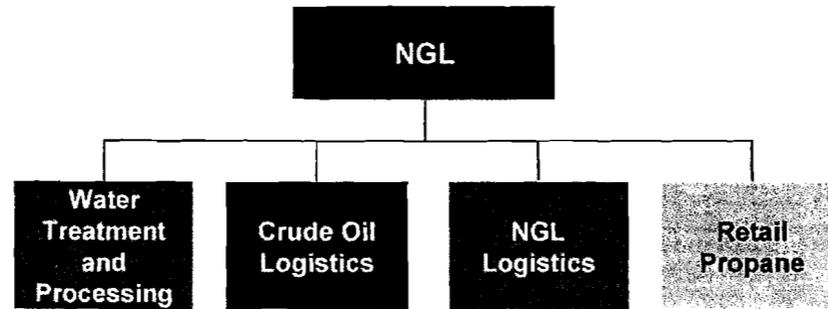


Market Cap



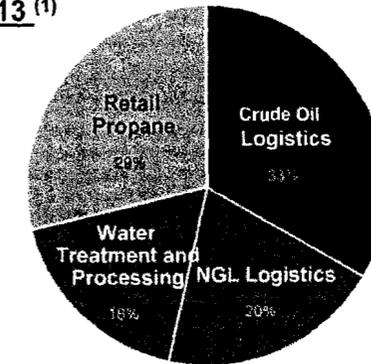
NGL Energy Partners Overview - Growth Since IPO

Operating Segments

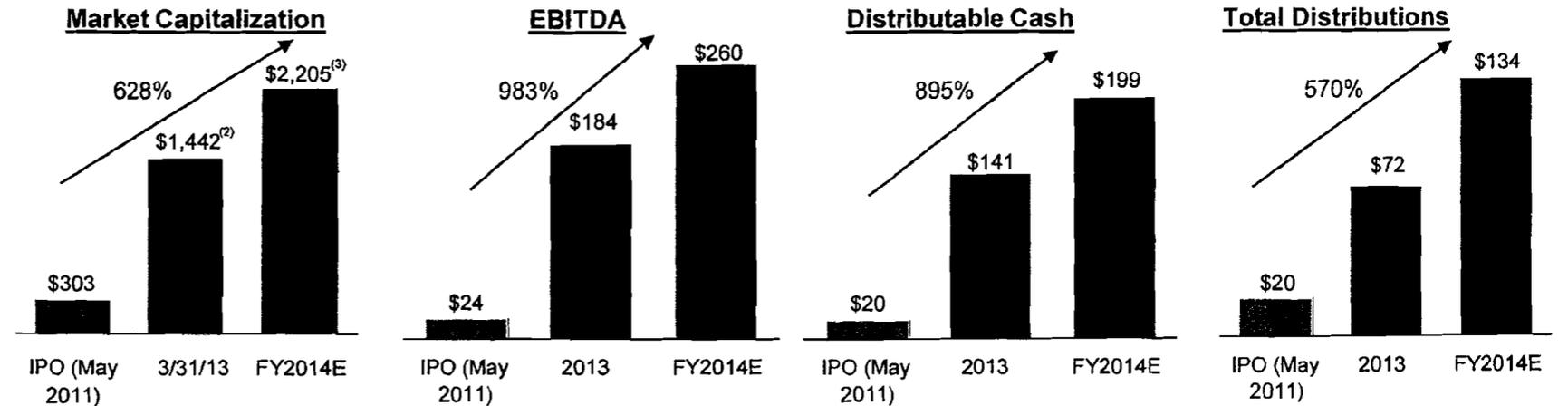


Segment Contribution

2013 ⁽¹⁾



Financial Comparison (IPO vs. Pro-Forma Fiscal Year-End 2013 and 2014) (\$ in millions)



(1) Represents pre-G&A pro-forma segment EBITDA for the fiscal year ending 3/31/2013.
 (2) Assumes unit price of \$26.90
 (3) Market Capitalization calculated based on assumed yield of 6.2% and projected distribution per unit of \$2.00.



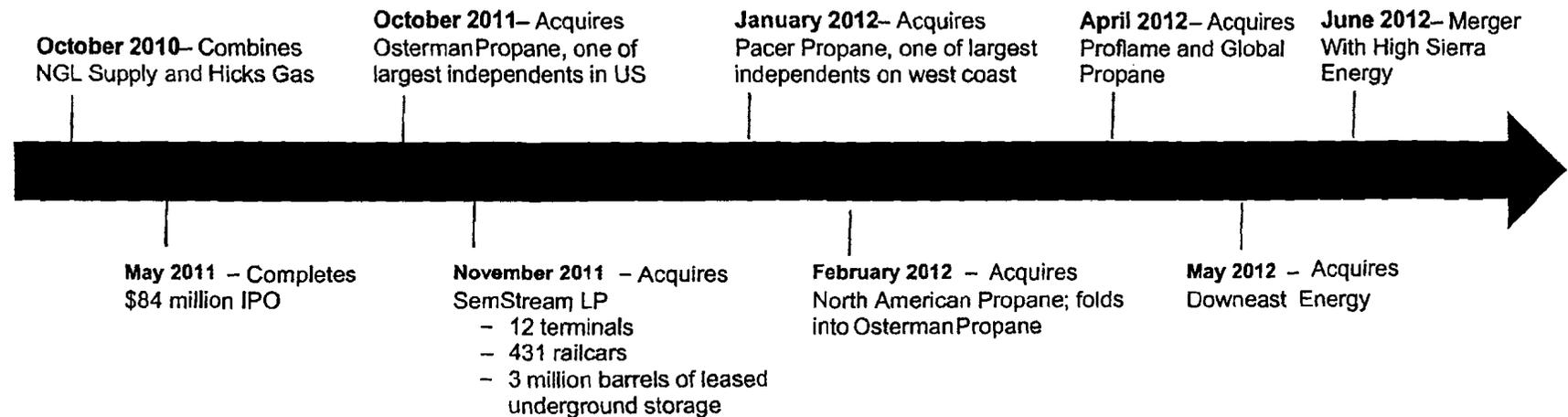
Analyst Meeting

June 22, 2012



SUCCESSFUL ACQUISITION AND IPO RECORD

- NGLEP has successfully acquired and integrated numerous companies and businesses over time
- Scalable business model with significant room for organic growth



NGL Energy Partners LP Expands Propane Service in the Northeast

by Quinn Wonderling



According to recent industry statistics from LPGas magazine, NGL Energy Partner's latest deal will solidify their status as one of the country's top tier propane retailers.

Yesterday NGL Energy Partners LP announced its new partnership with E. Osterman Propane, Inc. in a move that could place NLG Energy among the top ten retail propane marketers in the country, according to a MarketWatch report. The agreement states that Osterman Propane will contribute all its assets, including cash and common units, to NLG Energy, a Delaware limited company that owns and operates vertically integrated energy business.

"NGL is pleased to have the opportunity to partner with Osterman to expand our retail propane business into the Northeast, adding more geographic balance to our asset base," said H. Michael Krimbill, CEO of the Partnership. "The Osterman family has demonstrated confidence in NGL by accepting our common units as a significant portion of the consideration they will receive and we believe the transaction will be immediately accretive to our unitholders."

Osterman Propane operates 20 customer service and satellite distribution locations, with aboveground storage capacity around 1.7 million gallons. Within the last year, the company sold more than 40 million gallons of propane to 80,000 customers throughout Maine, Massachusetts, New Hampshire, Connecticut, Vermont, Rhode Island and New York. As part of the agreement, Vincent J. Osterman will join NGL Energy's board of directors and senior management team and oversee all East Coast retail propane operations. Both companies invite interested consumers and dealers to visit the partnership's website at www.nglenergypartners.com.

Categories: Blog, business, propane suppliers

Posted on Aug 16 2011





E. Osterman Propane Inc. merges with NGL Energy Partners of Oklahoma

Jim Kinney, The Republican By Jim Kinney, The Republican

Follow on Twitter

on October 31, 2011 at 7:11 AM



SOUTHBRIDGE – **E. Osterman Propane Inc.** has merged with the much larger and recently formed NGL Energy Partners LLC based in Tulsa, Okla.

In the deal, Osterman took a significant equity stake in the new company and company president Vincent J. Osterman will become a director of NGL and a vice president in the retail operation, Osterman said Friday. Osterman's son, Timothy A. Osterman, also will take a leadership role in the combined company.

"This was not done for money," Vincent J. Osterman said. "This was done to provide opportunity for our employees and our customers."

His father, Ernest Osterman, was a veteran of the Korean War and founded the company in 1960 after getting training through the GI Bill. Back then, he had about 300 customers. Today, Osterman services 80,000 customers Massachusetts, Rhode Island, Vermont, New Hampshire and New York. Osterman's wholesale distribution network goes throughout the Northeast.

E. Osterman Propane Inc. has 200 employees now and it hopes to grow.

NGL has a robust business collecting supplies of propane and distributing it around the country, a business that includes access to gas-producing shale deposits and the management of railroad cars, Osterman said. That network will hopefully lower the price of propane for Osterman customers. He said staffing and service will not change nor will the name of the company change.

NGL was formed in 2010 through the merger of Hicksgas and NGL Supply. NGL is also buying SemGroup Corp.'s SemStream gas operations for \$279 million.

Osterman said the propane business is growing as consumers turn away from fuel oil and electricity towards efficient propane-fired equipment.

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LP Gas

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NGL Energy Partners acquires more assets

February 10, 2012 - By [Kevin Yanik](#) 0 Comments

NGL Energy Partners LP signed an agreement with North American Propane Inc. to acquire assets in Massachusetts, Maine, Connecticut, New Hampshire, Rhode Island, Pennsylvania, Delaware, New Jersey and Maryland, the partnership announced. North American Propane serves more than 50,000 customers and delivers about 18 million gallons of retail propane volume, 8 million gallons of wholesale propane volume and 10 million gallons of distillate volume annually. In addition, the assets include three propane terminals, two of which have rail and truck capability, with a combined propane storage capacity of 1.2 million gallons. Upon closing, NGL midstream will own 18 natural gas liquids terminals from coast to coast. The transaction was expected to close at the end of January or early February.

This article is tagged with [mergers and acquisitions](#), [NGL Energy Partners](#), [north american propane](#) and posted in [Mergers and acquisitions](#), [News](#)



About the Author: [Kevin Yanik](#)

Kevin Yanik is the managing editor of LP Gas Magazine. Contact him at kyanik@northcoastmedia.net or 216-

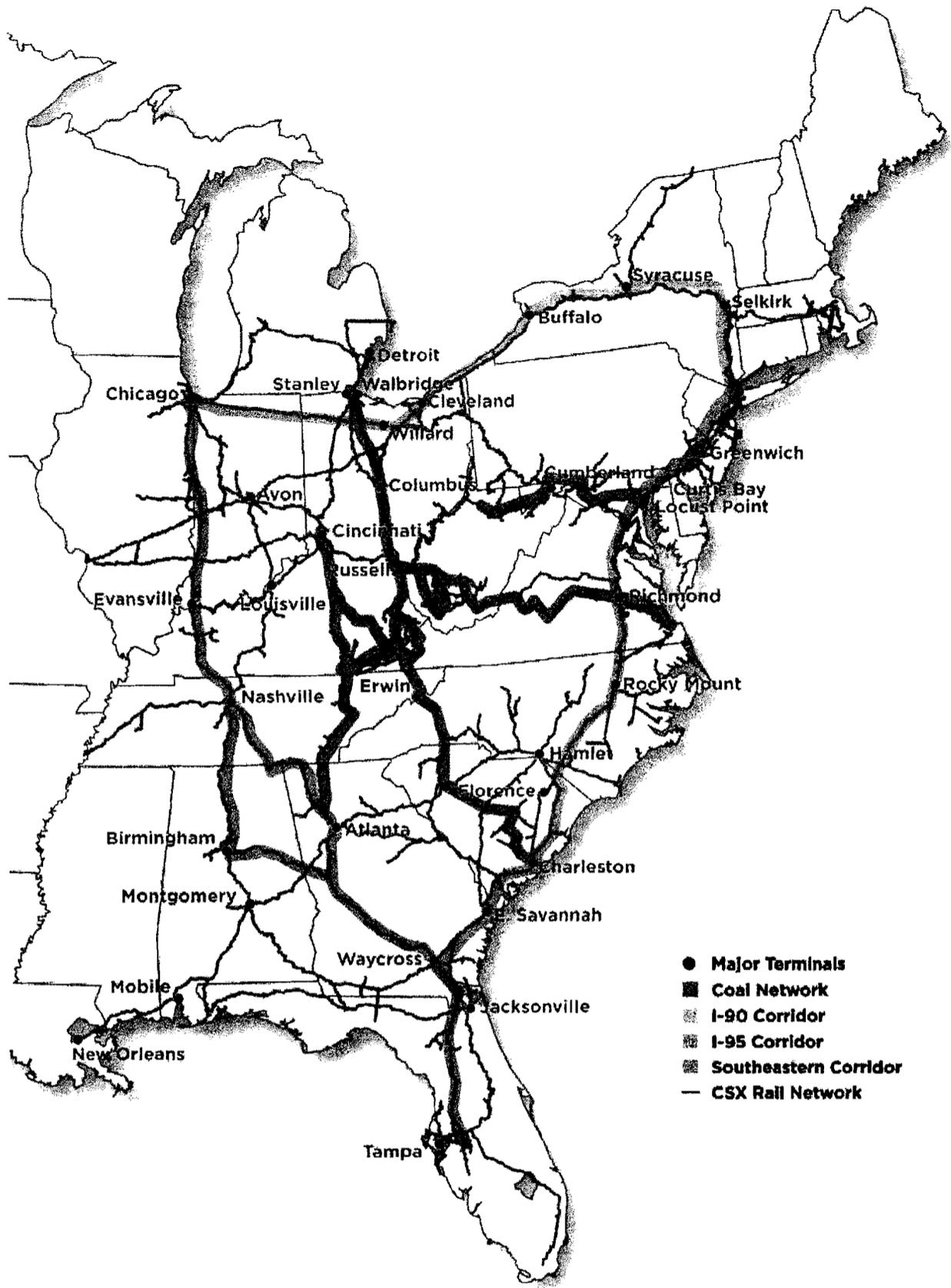


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CERTIFICATE OF SERVICE

I certify that I this day have served the foregoing Reply on the Grafton & Upton Railroad, the American Short Line and Regional Railroad Association and the Massachusetts Department of Environmental Protection by e-mailing copies to their attorneys at jim@jehowardlaw.com, kborman@aslrra.org and maryjudepigsley@state.ma.us.

Dated at Washington, DC, this 20th day of March 2014.

A handwritten signature in cursive script, reading "Fritz R. Kahn", is written above a horizontal line.

Fritz R. Kahn