

BOOK 79 PAGE 440

STATE MS. - DESOTO CO.
FILED

DEC 9 10 26 AM '98

PREPARED BY AND AFTER RECORDING
RETURN TO:
Hale and Dorr LLP
60 State Street
Boston, MA 02109
Attention: Melvin R. Shuman, Esq.
Telephone: 617-526-6252

BK 79 PG 440
W.E. DAVIS CR. CLK.

INDEXING INSTRUCTIONS:

To the Chancery Clerk of DeSoto County, Mississippi:
The real property described herein is situated in Lots 1 and 2, Kroger Plaza Shopping Center, P.B. 23, Page 19, part of the NW Quarter of the NE Quarter of Section 24, Township 1 South, Range 8 West, of DeSoto County, Mississippi.

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (hereinafter referred to as this "Assignment"), is made and entered into as of this 27th day of May, 1998 by SUMMIT INSURED EQUITY L.P., a Delaware limited partnership (hereinafter referred to as "Mortgagor"), to BANKBOSTON, N.A., a national banking association (hereinafter referred to as "Lender"), for itself and as Agent for the Lenders pursuant to the terms of the Loan Agreement (defined below).

W I T N E S S E T H:

THAT FOR AND IN CONSIDERATION of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the Secured Obligations (as defined herein), Mortgagor does hereby grant, transfer and assign to Lender, its successors, successors-in-title and assigns, all of Mortgagor's right, title and interest in, to and under any and all leases, tenancies, agreements or licenses, written or oral, now existing or hereafter entered into by Mortgagor as "landlord", "lessor" or "licensor", for the use or occupancy of all or any portion of the property (hereinafter referred to as the "Property") located in DeSoto County, Mississippi, more particularly described in Exhibit A attached hereto and by this reference made a part hereof, including any and all extensions, renewals and modifications thereof and guaranties of the performance or obligations of any tenants, lessees or licensees thereunder (said leases, tenancies, agreements and licenses are hereinafter referred to collectively as the "Leases," and said tenants, lessees and licensees are hereinafter referred to collectively as "Tenants" or individually as a "Tenant" as the context requires), together with all of Mortgagor's right, title and interest in and to all rents,

issues and profits from the Leases and from the Property. This Assignment constitutes a present and absolute assignment of leases and rents, subject only to Mortgagor's rights under Paragraph 1.3(a) hereof.

TO HAVE AND TO HOLD unto Lender, its successors and assigns forever, subject to and upon the terms and conditions set forth herein.

This Assignment is made to secure the payment and performance of the following described obligations (hereinafter collectively referred to as the "Secured Obligations") related to the guaranty of indebtedness the maturity date of which is the maturity date of which is December 29, 2000:

(a) The guaranty by Mortgagor, as evidenced by that certain Unconditional Guaranty of Payment and Performance (hereinafter, together with any and all renewals, modifications, consolidations and extensions thereof, referred to as the "Mortgage Guaranty") dated as of December 29, 1997, of payment and performance by Aegis Realty Operating Partnership, L.P., a Delaware limited partnership (the "Borrower") of its obligations under that certain Revolving Credit Agreement between Lender and Borrower of even date therewith as it may be amended or supplemented from time to time (the "Loan Agreement"; all capitalized terms not defined herein shall have the meanings ascribed to them in the Loan Agreement) and the Revolving Credit Note pertaining thereto as it may be modified, supplemented or substituted (in whole or in part) from time to time, of even date therewith, in the maximum principal face amount of FORTY MILLION AND NO/100 DOLLARS (\$40,000,000.00) (the "Note"; the transaction contemplated by the Loan Agreement and evidenced by the Note is hereinafter referred to as the "Loan"; all documents evidencing the Loan and the security related thereto are referred to herein as the "Loan Documents"), together with interest as therein provided;

(b) The full and prompt payment and performance by Mortgagor of all of the agreements, covenants and obligations of Mortgagor herein contained and contained in that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement (the "Mortgage") made by Mortgagor for the benefit of Lender, dated of even date herewith and to be recorded herewith, the Indemnity Agreement, or under any of the other Loan Documents to which Mortgagor is a party; and

(c) Any and all additional advances made by Lender to protect or preserve the Property or the security interest granted with respect thereto by Mortgagor, or for taxes, assessments or insurance premiums as hereinafter provided or for performance of any of Mortgagor's obligations hereunder or under the Mortgage Guaranty, Indemnity Agreement or the Mortgage, or under any of the Loan Documents to which Mortgagor is a party, or for any other purpose

provided herein (whether or not the original Mortgagor remains the owner of the Property at the time of such advances).

As further security for the Secured Obligations and the full and prompt payment and performance of any and all obligations of Mortgagor to Lender under the Loan Documents to which Mortgagor is a party, Mortgagor hereby assigns to Lender any awards or payments which may be made in respect of Mortgagor's interest in any of the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court. Mortgagor hereby appoints Lender as its attorney-in-fact to appear in any such proceeding and/or to collect any such award or Payment.

ARTICLE ONE

WARRANTIES AND COVENANTS

1.1 Representations and Warranties of Mortgagor. Mortgagor hereby represents and warrants as follows:

- (a) Mortgagor is the sole and absolute owner of the entire landlord's or lessor's interest in the Leases and said rents, issues and profits which remain outstanding;
- (b) Mortgagor has made no prior assignment of any of the Leases or with respect to any of said rents, issues or profits;
- (c) Mortgagor has neither done any act nor omitted to do any act which might prevent Lender from, or limit Lender in, acting under any of the provisions of this Assignment;
- (d) Neither the execution and delivery of this Assignment or any of the Leases, the performance of each and every covenant of Mortgagor under this Assignment and the Leases, nor the meeting of each and every condition contained in this Assignment, conflicts with, or constitutes a breach or default under, any agreement, indenture or other instrument to which Mortgagor is a party, or any law, ordinance, administrative regulation or court decree which is applicable to Mortgagor;
- (e) No action has been brought or, to the actual knowledge of Mortgagor, is threatened, which would interfere in any way with the right of Mortgagor to execute this Assignment and perform all of Mortgagor's obligations contained in this Assignment and in the Leases;
- (f) The Mortgagor has delivered to the Lender correct and complete copies of all Leases existing as of the date of this Assignment, whether or not the

tenants thereunder have commenced occupancy or the payment of rent, and all amendments, exhibits, addenda and schedules thereto;

(g) The Mortgagor has delivered to the Lender an accurate and complete rent roll current as of the date hereof with respect to all Leases existing as of the date of this Assignment (hereinafter referred to as the "Rent Roll"). There are no occupancies, rights, privileges or licenses in or to the Property other than pursuant to the Leases reflected on the Rent Roll. Except as set forth in the Rent Roll, the Leases were duly executed and delivered, pursuant to authority legally adequate therefor on the part of the Mortgagor, are now in full force and effect, and are the legal, valid and binding obligations of the Mortgagor, enforceable in accordance with their terms. The Rent Roll accurately and completely sets forth all rents payable by and security, if any, deposited by tenants, with no Tenant having paid more than one (1) month's rent in advance (except as may be set forth in the Rent Roll);

(h) Other than as set forth on Schedule 1 annexed hereto, all tenant improvements or work to be done, furnished or paid for by the Mortgagor, or credited or allowed to a tenant, for, or in connection with, the Property pursuant to any Lease has been completed and paid for or provided for in a manner satisfactory to the Lender. Other than as set forth on Schedule 1, no leasing, brokerage or like commissions, fees or payments are due from the Mortgagor in respect of the Leases;

(i) Other than as set forth on Schedule 1 annexed hereto, no material default exists on the part of Mortgagor in the fulfillment, performance or observance of any of the terms, conditions or covenants of landlord or lessor contained in any of the Leases, and (i) no payment default or to Mortgagor's actual knowledge any other material default exists on the part of any Tenant in the fulfillment, performance or observance of any of the terms, conditions or covenants of tenant or lessee contained in any of the Leases, (ii) to the best of the Mortgagor's knowledge, there are no defenses, counterclaims or offsets, or, except as set forth in the Leases, concessions or rebates available to any tenant thereunder, (iii) the Mortgagor has not given or made, or received, any notice of default, or any claim, which remains uncured or unsatisfied, with respect to any of the Leases and (iv) to the best of the Mortgagor's knowledge, there is no basis for any such claim or notice of default by any tenant; and

1.2 Covenants of Mortgagor. Mortgagor hereby covenants and agrees as follows:

(a) Mortgagor shall (i) fulfill, perform and observe in a commercially reasonable manner each and every term, condition and covenant of landlord or lessor contained in each of the Leases; (ii) give prompt notice to Lender of any

written claim of default under any of the Leases, whether given by the Tenant to Mortgagor, or given by Mortgagor to the Tenant, together with a complete copy of any such notice but only for leases of 10,000 square feet or more; (iii) at no cost or expense to Lender, enforce the performance and observance of each and every term, condition and covenant of each of the Leases to be performed or observed by the Tenant thereunder in a commercially reasonable manner (subject to the other provisions of this Section 1.2); and (iv) appear in and defend any action arising out of, or in any manner connected with, any of the Leases, or the obligations or liabilities of Mortgagor as the landlord or lessor thereunder, or of the Tenant or any guarantor thereunder;

(b) [Intentionally Omitted];

(c) Mortgagor shall not, without the prior written consent of Lender, permit the prepayment of any rents under any of the Leases for more than one (1) month prior to the accrual thereof;

(d) Mortgagor shall not assign its interest in, to or under any of the Leases or the rents, issues and profits from any of the Leases or from the Property to any person or entity other than Lender, except in connection with a Permitted Transfer (as defined in the Mortgage);

(e) Mortgagor shall not, without the prior written consent of Lender, enter into any new Lease (i) for more than 10,000 square feet of net leasable area of the Improvements; or (ii) pursuant to a form of lease other than the standard form of lease as approved by the Lender (the "Standard Form Lease"). Without limiting the generality of the foregoing, each new Lease shall provide:

(i) for any Key Tenant (defined as a Tenant who leases more than 10,000 square feet of the net leasable area of the Improvements), - that such tenant prepare and deliver to the Mortgagor and the Lender annual financial statements certified by an independent certified public accountant within 120 days following the end of each fiscal year of such tenant;

(ii) for each Key Tenant to enter into a Nondisturbance, Attornment and Subordination Agreement upon the request of the Lender in form and substance reasonably acceptable to Lender;

(f) With respect to this section 1.2 only, in connection with any Leases with Key Tenants, Mortgagor shall not, without the prior written consent of Lender (such consent not to be unreasonably withheld or delayed) (i) modify any of the Leases; (ii) terminate the term or accept the surrender of any of the Leases; (iii) waive or release the Key Tenant from the performance or observation by

the Key Tenant of any monetary or other material obligation or condition of any of the Leases; (iv) give any consent to any assignment or sublease by the Key Tenant under any of the Leases unless required thereby; (v) agree to subordinate any of the Leases to any mortgage or other encumbrance; or (vi) modify the terms of any guaranty of any of the Leases, or terminate any such guaranty;

(g) Mortgagor shall take no action which will cause or permit the estate of the Tenant under any of the Leases to merge with the interest of Mortgagor in the Property or any portion thereof;

(h) Upon written request of the Lender, the Mortgagor shall cause any tenant under a Lease to deliver to the Lender a tenant estoppel containing such information as Lender may reasonably require.

(i) Mortgagor does hereby authorize and empower Lender to collect all rents, issues and profits arising or accruing under the Leases or from the Property as they become due, and does hereby irrevocably authorize and direct, each and every present and future Tenant of the whole or any part of the Property, upon receipt of written notice from Lender, to pay all rents, issues and profits thereafter arising or accruing under the Leases or from the Property to Lender and to continue to do so until otherwise notified by Lender, and Mortgagor agrees that each and every Tenant shall have the right to rely upon such notice by Lender without any obligation or right to inquire as to whether any Event of Default exists and notwithstanding any notice or claim of Mortgagor to the contrary, and that Mortgagor shall have no right or claim against any Tenant for any rents paid by such Tenant to Lender following receipt of such notice.

1.3 Covenants of Lender. Lender hereby covenants and agrees with Mortgagor as follows:

(a) Although this Assignment constitutes a present, current and absolute assignment of all Leases and all rents, issues and profits from the Property, so long as no Event of Default (as defined herein) has occurred, Lender shall not demand that such rents, issues and profits be paid directly to Lender, and Mortgagor shall have the right to collect, but not more than one (1) month prior to accrual, all such rents, issues and profits from the Property (including, but not by way of limitation, all rents payable under the Leases), provided, however, that Mortgagor shall collect and receive all such rents, issues and profits from the Property as trustee for the benefit of Mortgagee, and shall apply such rents, issues and profits so collected to the Secured Obligations, to the extent then due, with the balance, so long as no Event of Default has occurred, to the account of Mortgagor; and

(b) Upon the payment in full of the Secured Obligations, as evidenced by the recording or filing of an instrument of satisfaction or full release of the Mortgage without the recording of another security deed in favor of Lender affecting the Property, this Assignment shall be terminated and released of record by Lender and shall thereupon be of no further force or effect.

ARTICLE TWO

DEFAULT

2.1 Event of Default. The term "Event of Default," wherever used in this Assignment, shall mean any one or more of the following conditions or events:

- (a) Failure by Mortgagor to pay the Secured Obligations or to pay any monetary obligations hereunder or under the Mortgage as and when due and payable (including, but not limited to, any payment of Funds) and continuance of such failure for a period of five (5) days after written notice thereof from Mortgagee; or
- (b) Denial by Mortgagor of any liability or obligation hereunder, under the Mortgage, Mortgage Guaranty or the Indemnity Agreement, or the notification by Mortgagor to the Lender of the Mortgagor's intention to attempt to cancel or terminate the Mortgage Guaranty or the Indemnity Agreement, or the failure by Mortgagor to observe or comply with any term, covenant, condition and agreement under the Mortgage, the Mortgage Guaranty or the Indemnity Agreement; or
- (c) Any failure by Mortgagor to duly observe or perform any term, covenant, condition or agreement hereunder not also set forth in the Mortgage and continuance of such failure for a period of thirty (30) days after written notice thereof from the Mortgagee; provided that if such failure hereunder cannot reasonably be cured within said thirty (30) day period and provided that the Mortgagor shall have commenced such cure within such thirty (30) day period and shall diligently prosecute such cure to its completion, such period shall be extended for an additional time reasonably necessary to complete such cure not to exceed a total of sixty (60) days after such written notice; or
- (d) The occurrence of any "Event of Default" as defined in the Mortgage or in any of the Loan Documents.

If an Event of Default shall have occurred, Lender may, at Mortgagee's option, by notice to Mortgagor declare the entire Secured Obligations to be immediately due

and payable, whereupon the same shall become immediately due and payable, and without presentment, protest, demand or other notice of any kind, all of which are hereby expressly waived by Mortgagor. No omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right.

2.2 Remedies. Upon the occurrence of any Event of Default, Lender may at its option, with or without notice or demand of any kind, (except as may be provided herein or in any of the Loan Documents), and without waiving such Event of Default exercise any or all of the following rights and remedies to the extent permitted by the laws of the State of Mississippi:

- (a) Either with or without entry or taking possession of the Property, give or require Mortgagor to give notice to any or all Tenants under the Leases authorizing and directing such Tenants to pay all rents, issues and profits and any other sums due under their Leases directly to Lender, and collect and receive all rents, issues and profits and other sums due under the Leases with respect to which such notice is given;
- (b) Either with or without entry or taking possession of the Property, perform any and all obligations of Mortgagor under any or all of the Leases or this Assignment and exercise any and all rights of Mortgagor herein or therein as fully as Mortgagor itself could do, including, without limiting the generality of the foregoing, enforcing, modifying, extending or terminating any or all of the Leases, collecting, modifying, compromising, waiving or increasing any or all of the rents payable thereunder, and obtaining new Tenants and entering into new Leases on the Property on any terms and conditions deemed desirable by Lender, and, to the extent Lender shall incur any costs in connection with the performance of any such obligations of Mortgagor, including costs of litigation, then all such costs shall become a part of the Secured Obligations, shall bear interest from the incurring thereof at the Default Rate specified in the Mortgage, and shall be due and payable on demand;
- (c) Either with or without entry or taking possession of the Property, in Mortgagor's or Lender's name, institute any legal or equitable action which Lender in its sole discretion deems desirable to collect and receive any or all of the rents, issues and profits assigned herein or to evict or remove any Tenants;
- (d) Enter upon, take possession of, and use and operate all or any portion of the Property which Lender in its sole discretion deems desirable to

effectuate any or all of the foregoing remedies, with full power to make alterations, renovations, repairs or replacements thereto.

Lender shall have full right to exercise any or all of the foregoing remedies and rights and without regard to the adequacy of security for any or all of the Secured Obligations, and with or without the commencement of any legal or equitable action or the appointment of any receiver or trustee.

2.3 Application of Rents. All rents, issues and profits and any other sums due under the Leases and with respect to the Property which are collected by Lender shall be applied by Lender in such order as Lender in its sole discretion may elect against: (i) all costs and expenses, including reasonable attorneys' fees, incurred in connection with the operation of the Property, the performance of Mortgagor's obligations under the Leases or the collection of the rents thereunder; (ii) all costs and expenses, including reasonable attorneys' fees, incurred in the collection of any of all of the Secured Obligations, including all costs, expenses and attorneys' fees incurred in seeking to realize on or to protect or preserve Lender's interest in any other collateral securing any or all of the Secured Obligations; and (iii) any or all unpaid principal of and interest on the Secured Obligations.

2.4 No Liability of Lender. Lender shall not be obligated to perform or discharge, nor does Lender hereby undertake to perform or discharge, any obligation, duty or liability of Mortgagor under any of the Leases or under or by reason of this Assignment, except those arising from and after Lender takes possession of the Property after an Event of Default. Prior to Lender's taking possession of the Property after an Event of Default, this Assignment shall not operate to place upon Lender responsibility for the control, care, management or repair of the Property, nor for the carrying out of any of the terms and conditions of any of the Leases, nor shall it operate to make Lender responsible or liable for any waste committed on the Property, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any person. Lender shall not be liable for any loss sustained by Mortgagor resulting from Lender's failure to let the Property after taking possession of the Property after an Event of Default, unless such loss is caused by the willful misconduct or gross negligence of Lender.

2.5 Indemnification. Mortgagor shall and does hereby agree to indemnify and to hold Lender harmless of and from any and all claims, demands, liability, loss or damage (including all reasonable costs, expenses, and attorneys' fees incurred in the defense thereof) asserted against, imposed on or incurred by Lender in connection with or as a result of this Assignment or the exercise of any rights or remedies under this Assignment or under any of the Leases or by reason of any alleged obligations or undertakings of Lender to perform or discharge any of the terms, covenants or agreements contained in any of the Leases; provided, however, that nothing herein

shall be construed to obligate Mortgagor to indemnify and hold Lender harmless from and against any and all claims, demands, liability, loss or damage enacted against, imposed on or incurred by Lender by reason of Lender's willful misconduct or gross negligence. Should Lender incur any such liability, loss or damage, or in the defense of any such claims or demands, for which it is to be indemnified by Mortgagor as aforesaid, the amount thereof shall be added to the Secured Obligations, shall bear interest at the Default Rate from the date incurred until paid, shall be secured by this Assignment, the Mortgage and the other Loan Documents, and shall be payable immediately upon demand.

ARTICLE THREE

GENERAL PROVISIONS

3.1 Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon Mortgagor and Lender and their respective heirs, executors, legal representatives, successors and assigns (but in the case of assigns of Mortgagor, only if and to the extent that Lender has consented in writing to Mortgagor's assignment of its rights or obligations hereunder to such assigns). Whenever a reference is made in this Assignment to "Mortgagor" or "Lender", such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Mortgagor or Lender.

3.2 Lender's Rights of Assignment; Rights of Assignees. Subject to the terms of the Loan Agreement, Lender may assign to any subsequent holder of the Mortgage Guaranty or the Mortgage, or to any person acquiring title to the Property, all of Lender's right, title and interest in any of the Leases and rents, issues and profits from the Property. No such assignee shall have any liability for any obligation which accrued under any of the Leases prior to the assignment to such assignee nor shall such assignee have any obligation to account to Mortgagor for any rental payments which accrued prior to such assignment. After Mortgagor's right, title and interest in the Property has been foreclosed or otherwise terminated, no assignee of Mortgagor's interest in the Leases shall be liable to account to Mortgagor for any rents, issues or profits thereafter accruing.

3.3 Terminology. All personal pronouns used in this Assignment, whether used in the masculine, feminine or neuter gender, shall include all other genders, and the singular shall include the plural, and vice versa. Titles of Articles are for convenience only and neither limit nor amplify the provisions of this Assignment.

3.4 Severability. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Assignment and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the

greatest extent permitted by law.

3.5 Applicable Law. This Assignment shall be interpreted, construed and enforced according to the laws of the State of Mississippi.

3.6 No Third Party Beneficiaries. This Assignment is made solely for the benefit of Lender and its assigns. No Tenant under any of the Leases nor any other person shall have standing to bring any action against Lender as the result of this Assignment, or to assume that Lender will exercise any remedies provided herein, and no person other than Lender shall under any circumstances be deemed to be a beneficiary of any provision of this Assignment.

3.7 No Oral Modifications. Neither this Assignment nor any provisions hereof may be changed, waived, discharged or terminated orally, except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

3.8 Cumulative Remedies. The remedies herein provided shall be in addition to and not in substitution for the rights and remedies vested in Lender in any of the Loan Documents or in law or equity, all of which rights and remedies are specifically reserved by Lender. The remedies herein provided or otherwise available to Lender shall be cumulative and may be exercised concurrently. The failure to exercise any of the remedies herein provided shall not constitute a waiver thereof, nor shall use of any of the remedies herein provided prevent the subsequent or concurrent resort to any other remedy or remedies. It is intended that this clause shall be broadly construed so that all remedies herein provided or otherwise available to Lender shall continue and be each and all available to Lender until the Secured Obligations shall have been paid in full.

3.9 Cross-Default. An Event of Default by Mortgagor under this Assignment shall constitute a default under the Note and an Event of Default under all other Loan Documents.

3.10 Counterparts. This Assignment may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument, and any of the parties or signatories hereto may execute this Assignment by signing any such counterpart.

3.11 Further Assurance. At any time and from time to time, upon request by Lender, Mortgagor will make, execute and deliver, or cause to be made, executed and delivered, to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such other and further assignments, deeds to secure debt, mortgages, deeds of trust, security

agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of Lender, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve (a) the obligations of Mortgagor under this Assignment and (b) the security interest created by this Assignment as a first and prior security interest upon the Leases and the rents, issues and profits from the Property. Upon any failure by Mortgagor so to do, Lender may make, execute, record, file, re-record and/or refile any and all such assignments, deeds to secure debt, mortgages, deeds of trust, security agreements, instruments, certificates, and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Lender the agent and attorney-in-fact of Mortgagor so to do.

3.12 Notices. Except as otherwise provided herein or in any other Loan Document, each notice, demand, election or request provided for or permitted to be given pursuant to this Agreement or any other Loan Document (hereinafter in this Section referred to as "Notice") must be in writing and shall be deemed to have been properly given or served by personal delivery or by sending same by overnight courier or by depositing same in the United States Mail, postpaid and registered or certified, return receipt requested, and addressed as follows:

If to the Lender:

BankBoston, N.A.
100 Federal Street
Boston, Massachusetts 02110
Attn: Real Estate Division

with a copy to:

Hale and Dorr LLP
60 State Street
Boston, Massachusetts 02109
Attn: Melvin R. Shuman, Esq.

If to the Mortgagor:

Summit Insured Equity L.P.
c/o Related Capital Company
625 Madison Avenue
New York, New York 10022-1801
Attn: Mr. Stuart Boesky

with a copy to:

Battle Fowler LLP
 75 East 55th Street
 New York, New York 10022
 Attn: Ann Shipley, Esq.

Each Notice shall be effective upon being personally delivered or upon being sent by overnight courier or upon being deposited in the United States Mail as aforesaid. The time period in which a response to such Notice must be given or any action taken with respect thereto (if any), however, shall commence to run from the date of receipt if personally delivered or sent by overnight courier, or if so deposited in the United States Mail, the earlier of three (3) Business Days following such deposit or the date of receipt as disclosed on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address for which no Notice was given shall be deemed to be receipt of the Notice sent. By giving at least thirty (30) days' prior Notice thereof, the Mortgagor or the Lender shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

3.13 Modifications, Etc. Lender may at any time and from time to time, without notice to or further consent from Mortgagor, either with or without consideration, surrender any property or other security of any kind or nature whatsoever held by it or by any person, firm or corporation on its behalf or for its account, securing the Secured Obligations; substitute for any collateral so held by it, other collateral of like kind, or of any kind; agree to modification of the terms of the Note or the Loan Documents; extend or renew the Note or any of the Loan Documents for any period; grant releases, compromises and indulgences with respect to the Note or the Loan Documents to any persons or entities now or hereafter liable thereunder or hereunder; release any guarantor or endorser of the Note, the Mortgage, or any other Loan Documents; or take or fail to take any action of any type whatsoever; and no such action which Lender shall take or fail to take in connection with the Loan Documents, or any of them, or any security for the payment of the Secured Obligations or for the performance of any obligations or undertakings of Mortgagor, nor any course of dealing with Mortgagor or any other person, shall release Mortgagor's obligations hereunder, affect this Assignment in any way or afford Mortgagor any recourse against Lender. The provisions of this Assignment shall extend and be applicable to all renewals, amendments, extensions, consolidations and modifications of the Loan Documents and the Leases, and any and all references herein to the Loan Documents or the Leases shall be deemed to include any such renewals, amendments, extensions, consolidations or modifications thereof.

3.14 MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY AND

INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS ASSIGNMENT, THE MORTGAGE, OR THE OTHER LOAN DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY OR ANY EXERCISE BY ANY PARTY OF THEIR RESPECTIVE RIGHTS UNDER ANY OF THE FOREGOING DOCUMENTS OR IN ANY WAY RELATING TO THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY ACTION TO RESCIND OR CANCEL THIS ASSIGNMENT AND ANY CLAIM OR DEFENSE ASSERTING THAT THIS ASSIGNMENT WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE); THIS WAIVER BEING A MATERIAL INDUCEMENT FOR LENDER TO ACCEPT THIS ASSIGNMENT.

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BOOK 79 PAGE 455

EXHIBIT A

Legal Description

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Exhibit A

Legal Description of the Property

Lots 1 & 2, Kroger Plaza Shopping Center Subdivision, in Section 24, Township 1 South, Range 8 West, City of Southaven, DeSoto County, Mississippi, as shown by plat appearing of record in Plat Book 23, Page 19, in the office of the Chancery Clerk of DeSoto County, Mississippi.

SCHEDULE 1

Uncompleted Tenant Improvements; Lease Defaults; Defenses

NONE