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This instrument prepared by:  
Kristin K. Seabrook, Esq.  
Pilot Travel Centers LLC  
5508 Lonas Road  
Knoxville, TN 37909  
(865) 474-2219

2010 061220

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2010 OCT 21 AM 8:57

MICHELLE R. FAJMAN  
RECORDER

Recording requested by, and  
after recording return to:

Joel L. Wiegert  
Kutak Rock LLP  
The Omaha Building  
1650 Farnam Street  
Omaha, NE 68102

**CONSENT, ASSIGNMENT, ASSUMPTION  
AND MODIFICATION AGREEMENT**

**THIS CONSENT, ASSIGNMENT, ASSUMPTION AND MODIFICATION AGREEMENT** (this "Agreement"), dated as of August 24, 2010, but effective as of June 30, 2010 ("Effective Date"), by and among **FLYING J INC.**, a Utah corporation with its principal place of business at 1104 Country Hills Drive, Ogden, Utah 84403 ("Assignor"), **PILOT TRAVEL CENTERS LLC**, a Delaware limited liability company with its principal place of business at 5508 Lonas Road, Knoxville, TN 37909 ("Assignee"), **FREE V LLC**, a Utah limited liability company with its principal place of business at 5508 Lonas Road, Knoxville, TN 37909 ("Borrower"), and **RBS ASSET FINANCE, INC.**, a New York corporation formerly known as RBS Lombard, Inc., whose address is 71 S. Wacker Drive, Suite 2800, Chicago, IL 60606 ("Lender").

**RECITALS**

A. Borrower is the owner of certain real property more particularly described on Exhibit A attached hereto and incorporated herein by reference, together with all improvements and fixtures located thereon (collectively, the "Site"), and certain personal property located on the Sites or related to the operation thereof, as more particularly described in the hereafter defined Equipment Leases (collectively, the "Equipment").

B. Borrower is the current lessor, and Assignor is the current lessee, under (i) that certain Lease Agreement dated as of December 31, 2003 (together with all exhibits, attachments, amendments and modifications thereto, the "2003 Property Lease") by and between Borrower and Assignor and (ii) that certain Master Lease Agreement dated as of December 31, 2003 (together with all exhibits, attachments, amendments and modifications thereto, the "2003 Master Equipment Lease") by and between Borrower and Assignor, and Schedule No. 1 thereto dated as of December 31, 2003 (together with all exhibits, attachments, amendments and modifications thereto, the "2003 Equipment Schedule"; the 2003 Master Equipment Lease and the 2003 Equipment Schedule, together, the "2003 Equipment Lease"), pursuant to which,

4813-0606-5158.5

✓ # 1137144  
45<sup>00</sup>  
AB E

among other things, Assignor leases certain of the Sites and Equipment from Borrower as more particularly described therein.

C. Borrower is the current lessor, and Assignor is the current lessee, under (i) that certain Master Property Lease Agreement dated as of June 30, 2006 (together with all exhibits, attachments, amendments and modifications thereto, the "2006 Master Property Lease") by and between Borrower and Assignor, and Property Schedule Nos. 6, 8, 9 and 10 thereto, each dated as of June 30, 2006 (together with all exhibits, attachments, amendments and modifications thereto, the "2006 Property Schedules"; the 2006 Master Property Lease and the 2006 Property Schedules, collectively, the "2006 Property Leases") and (ii) that certain Master Equipment Lease Agreement dated as of June 30, 2006 (together with all exhibits, attachments, amendments and modifications thereto, the "2006 Master Equipment Lease") by and between Borrower and Assignor, and Equipment Schedule Nos. 6, 8, 9 and 10 thereto, each dated as of June 30, 2006 (together with all exhibits, attachments, amendments and modifications thereto, the "2006 Equipment Schedules"; the 2006 Master Equipment Lease and the 2006 Equipment Schedules, collectively, the "2006 Equipment Leases"), pursuant to which, among other things, Assignor leases certain of the Sites and Equipment from Borrower as more particularly described therein.

D. Borrower is the current lessor, and Assignor is the current lessee, under (i) that certain Master Property Lease Agreement dated as of May 27, 2008 (together with all exhibits, attachments, amendments and modifications thereto, the "2008 Master Property Lease") by and between Borrower and Assignor, and Property Schedule No. 4 thereto dated as of May 27, 2008 (together with all exhibits, attachments, amendments and modifications thereto, the "2008 Property Schedule"; the 2008 Master Property Lease and the 2008 Property Schedule, together, the "2008 Property Lease") and (ii) that certain Master Equipment Lease Agreement dated as of May 27, 2008 (together with all exhibits, attachments, amendments and modifications thereto, the "2008 Master Equipment Lease") by and between Borrower and Assignor, and Equipment Schedule No. 4 thereto dated as of May 27, 2008 (together with all exhibits, attachments, amendments and modifications thereto, the "2008 Equipment Schedule"; the 2008 Master Equipment Lease and the 2008 Equipment Schedule, together, the "2008 Equipment Lease"; the 2008 Equipment Lease, the 2008 Property Lease, the 2006 Equipment Leases, the 2006 Property Leases, the 2003 Equipment Lease and the 2003 Property Lease, collectively, the "Leases"), pursuant to which, among other things, Assignor leases certain of the Sites and Equipment from Borrower as more particularly described therein.

E. The Sites and the Equipment are encumbered by first priority liens and security interests in favor of Lender pursuant to, among other things, the Deeds of Trust and Mortgages described on Schedule I attached hereto and incorporated herein by reference (collectively, the "Mortgages") and the hereafter defined Loan Agreements. The Mortgages, the Loan Agreements and any and all other documents, instruments or agreements evidencing, creating or perfecting a lien or security interest in favor of Lender relating to any of the Sites or the Equipment are collectively referred to herein as the "Security Documents."

F. The Security Documents secure the repayment of certain loans (the "Loans") made by Lender to Borrower pursuant to (i) that certain Loan Agreement dated as of December 31, 2003 between Borrower and Lender (together with all exhibits, attachments, amendments

and modifications thereto, the "2003 Loan Agreement"), (ii) that certain Loan Agreement dated as of June 30, 2006 between Borrower and Lender (together with all exhibits, attachments, amendments and modifications thereto, the "2006 Loan Agreement") and (iii) that certain Loan Agreement dated as of May 27, 2008 between Borrower and Lender (together with all exhibits, attachments, amendments and modifications thereto, the "2008 Loan Agreement"; the 2008 Loan Agreement, the 2006 Loan Agreement and the 2003 Loan Agreement, collectively, the "Loan Agreements").

G. Lender's agreement to enter into the Loan Agreements and disburse the proceeds of the Loans was conditioned upon, among other things, the execution and delivery by Borrower and Assignor of (i) the Subordination and Attornment Agreements described on Schedule II attached hereto and incorporated herein by reference (collectively, the "Subordination Agreements") and (ii) the Environmental Indemnity Agreements described on Schedule III attached hereto and incorporated herein by reference (collectively, the "Environmental Indemnities"). The Mortgages, the Loan Agreements, the Subordination Agreements, the Environmental Indemnity Agreements and all other documents, instruments and agreements evidencing or securing the Loans, as modified or amended from time to time, are collectively referred to herein as the "Loan Documents."

H. Assignor intends to assign all of Assignor's right, title and interest in, to and under the Leases to Assignee (the "Assignment") pursuant to this Agreement.

I. The Assignment would constitute an event of default under the Loan Documents unless Lender provides its prior written consent thereto.

J. Lender is willing to consent to the Assignment, effective as of the Effective Date, subject to the terms of this Agreement. Lender's willingness to consent to the Assignment is expressly conditioned upon, among other things, Assignee's assumption hereunder of all of Assignor's obligations, agreements, covenants, liabilities, representations, warranties and duties under the Leases, the Subordination Agreements and the Environmental Indemnities.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is acknowledged, and in consideration of the mutual promises and undertakings herein contained, the parties hereto agree as follows:

## AGREEMENT

**1. Assignment.** Effective as of the Effective Date, and subject to the satisfaction of the conditions precedent set forth in Section 3 below and all of the other terms and provisions of this Agreement, Assignor hereby grants, conveys, assigns and transfers to Assignee all of its right, title and interest in, to and under the Leases.

**2. Assumption.** Effective as of the Effective Date, and subject to the satisfaction of the conditions precedent set forth in Section 3 below and all of the other terms and provisions of this Agreement, Assignee hereby accepts Assignor's right, title and interest in, to and under the Leases and assumes all of the terms, covenants, agreements, conditions and obligations of Assignor under the Leases, the Subordination Agreements and the Environmental Indemnities, to

the extent arising on or after the Effective Date, but otherwise with full force and effect as if Assignee had been specifically named thereunder as the original lessee or indemnitor, as applicable. The foregoing assumption by Assignee is absolute and unconditional and is not subject to any defenses, waivers, claims or offsets nor may it be affected or impaired by any agreement, condition, statement or representation of Assignor or any failure to perform the same, and Assignee hereby relinquishes, waives and releases any and all such defenses, claims, offsets, and causes of action. Assignee expressly agrees that it has read and approved of and will comply with and be bound by all of the terms, conditions and provisions contained in the Leases, the Subordination Agreements and the Environmental Indemnities. Assignee hereby ratifies, affirms, reaffirms, acknowledges, confirms and agrees that the Leases, the Subordination Agreements and the Environmental Indemnities represent the valid, binding and enforceable obligations of Assignor.

**3. Consent of Lender.** As evidenced by its execution of this Agreement, Lender hereby consents to the Assignment, subject to Lender's receipt of this Agreement, properly executed on behalf of Assignor, Assignee and Borrower.

**4. Post-Closing Requirements.** Borrower and Assignee hereby covenant and agree to deliver to Lender the following items, each in form and substance reasonably acceptable to Lender, on or before August 9, 2010:

(a) evidence of Assignee's satisfaction of all insurance requirements set forth in the Leases;

(b) a Subordination Agreement, in form and substance acceptable to Lender, among Assignee, Boss Truck Shops, Inc. and Lender, relating to the existing sublease between Boss Truck Shops, Inc. and Assignor for a portion of the Site commonly known as 3231 East 181<sup>st</sup> Street, Lowell, Indiana (the "Sublease Subordination"), properly executed on behalf of Assignee and Boss Truck Shops, Inc.; and

(c) the payment to Lender of all reasonable and documented fees and expenses, including, without limitation, attorneys' fees and recording fees and taxes, incurred by Lender in connection with (i) this Agreement and the transactions contemplated hereunder, (ii) the Sublease Subordination and (iii) the acquisition by Assignee of the outstanding membership interests in Borrower pursuant to the Contribution Agreement dated as of December 18, 2009 by and among Assignee, Assignor and Pacific Sunstone Inc.

The failure of Borrower and Assignee to satisfy the requirements of this Section 4 on or before August 9, 2010 shall, at Lender's option, constitute a default and an event of default under each of the Leases and the Loan Documents.

**5. Limitation of Consent.** Lender's consent in this Agreement is strictly limited to the Assignment, and this Agreement shall not constitute a waiver or modification of any requirement of obtaining Lender's consent to any further assignments of the Leases. Nothing in this Agreement shall in any way release, diminish or affect the liens and security interests created

pursuant to the Security Documents. The Leases and the Loan Documents are hereby ratified and, except as expressly specified herein, remain unmodified and are in full force and effect.

**6. Assignor Liability.** Assignor shall not be obligated to perform or discharge, and does not undertake to perform or discharge, any obligations, duties, or liabilities under the Leases, the Subordination Agreements or the Environmental Indemnities, to the extent arising on or after the Effective Date. Assignee hereby agrees with Assignor that it will indemnify and hold Assignor harmless from and against all losses, costs, damages, suits, actions, claims, charges, expenses and liabilities, including reasonable attorneys' fees and expenses, relating in any manner whatsoever to the Leases, the Subordination Agreements or the Environmental Indemnities or arising out of the failure of Assignee to keep, perform, and observe all of the terms, covenants, agreements, conditions and obligations contained in the Leases, the Subordination Agreements or the Environmental Indemnities on the part of the Assignee to be kept, performed and observed thereunder from and after the Effective Date.

**7. Assignee Liability.** Assignee shall not be obligated to perform or discharge, and does not undertake to perform or discharge, any obligations, duties, or liabilities under the Leases, the Subordination Agreements or the Environmental Indemnities, to the extent arising prior to the Effective Date. Assignor hereby agrees to indemnify and hold Assignee harmless from and against any and all losses, costs, damages, suits, actions, claims, charges, expenses and liabilities, including reasonable attorneys' fees and expenses, relating in any manner whatsoever to the Leases, the Subordination Agreements or the Environmental Indemnities or arising out of the failure of Assignor to keep, perform, and observe all of the terms, covenants, agreements, conditions, and obligations contained in the Leases, the Subordination Agreements or the Environmental Indemnities on the part of Assignor to be kept, performed and observed thereunder prior to the Effective Date.

**8. Modification of Loan Documents.** Lender, Assignee, Assignor and Borrower hereby agree that, from and after the date hereof, the Leases and the Loan Documents shall be modified (or deemed to be modified) as follows:

(a) All references in the Leases and the Loan Documents to "Tenant," "Lessee," "Flying J" or words of like import referring to Assignor shall be deemed to refer to Assignee.

(b) Notwithstanding anything to the contrary set forth in the Leases or the Loan Documents, all notices, certificates, requests, demands and other communication required or permitted to be delivered to Assignee under the Leases or the Loan Documents shall be delivered to Assignee, in the manner of delivery provided for under the Leases and the Loan Documents, at the address of Assignee set forth above.

(c) Each reference in the Leases and the Loan Documents to "the Lease," "this Lease," "this Agreement," "this Instrument," "the Loan Documents," "thereunder," "hereunder" or words of like import referring to any of the other Leases or Loan Documents shall be deemed to mean such Leases or Loan Documents, as modified by this Agreement.

**9. Representations and Warranties of Lessee.** Assignor hereby covenants and warrants to and for the benefit of Lender, Borrower and Assignee that Assignor has not previously assigned or transferred any of its rights under the Leases and that Assignor is not in default under any of the Leases, the Subordination Agreements or the Environmental Indemnities (except for such defaults as have been waived in writing by Lender).

**10. Binding Effect.** All of the covenants, terms, and conditions set forth herein shall be binding upon the parties hereto and their respective successors, assigns, and legal representatives and shall inure to the benefit of the parties hereto, and their respective successors, assigns, and legal representatives.

**11. Choice of Law.** This Agreement shall be construed, governed and administered in accordance with the laws of the State of New York, without regard to the conflict of laws principles thereof.

**12. Execution in Counterpart.** This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which counterparts, when executed and delivered, shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same Agreement.

**13. Attorneys' Fees.** In the event it becomes necessary for any party to institute legal action to enforce the terms or provisions of this Agreement, the prevailing party in such legal action shall be entitled to recover from the other (in addition to any other relief granted) its reasonable associated attorneys' fees and costs.

**14. Further Assurances.** Assignor, Assignee and Borrower each agrees to do any act or execute any additional documents requested by Lender as may reasonably be required by Lender to effectuate the purpose of this Agreement (including, without limitation, the execution of such additional documents or the consent to such non-substantive modifications hereto as may be necessary in order to record the this Agreement in the real property records where each Site is located) in form and substance acceptable to all parties. Furthermore, and without limitation of the foregoing, Assignor, Assignee and Borrower each authorizes Lender to insert the applicable recording information for the Mortgages and the Subordination Agreements in Schedules I and II hereof prior to recordation of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have set their hands the date first above written.

ASSIGNOR:

FLYING J INC.

By: *Andre Lortz*  
Printed: Andre Lortz  
Its: CFO

STATE OF UTAH                    )  
  ) SS:  
COUNTY OF Weber            )

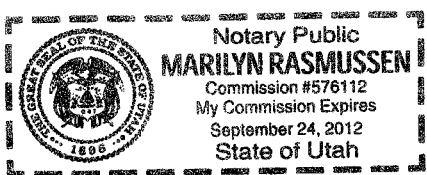
Personally appeared before me, a Notary Public of the State and County aforesaid, Andre Lortz with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as CFO of Flying J Inc, the within named bargainor, and that as such, CFO being duly and fully authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as CFO.

WITNESS my hand and official seal.

This the 24<sup>th</sup> day of Aug. 2010.

*Marilyn Rasmussen*  
NOTARY PUBLIC


My Commission Expires: 9/24/12



[EXECUTION PAGE OF ASSIGNOR TO CONSENT, ASSIGNMENT, ASSUMPTION AND MODIFICATION AGREEMENT]

**ASSIGNEE:**

**PILOT TRAVEL CENTERS LLC**, a Delaware limited liability company

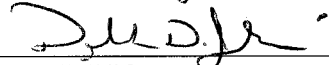
By:   
Printed: Mitchell D. Steenrod  
Its: Sr. VP & CFO

STATE OF TENNESSEE    )  
                                  ) SS:  
COUNTY OF KNOX        )

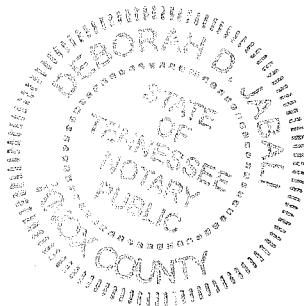
Personally appeared before me, a Notary Public of the State and County aforesaid, Mitchell D. Steenrod, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as Sr. VP & CFO of Pilot Travel Centers LLC, the within named bargainer, and that as such, Sr. VP & CFO being duly and fully authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Sr. VP & CFO.

WITNESS my hand and official seal.

This the 12<sup>th</sup> day of Aug, 2010.

  
NOTARY PUBLIC

My Commission Expires My commission expires Sept. 1. 2013



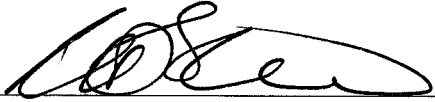
[EXECUTION PAGE OF ASSIGNEE TO CONSENT, ASSIGNMENT, ASSUMPTION AND MODIFICATION AGREEMENT]



**BORROWER:**

**FREE V LLC**, a Utah limited liability company

By: **PILOT TRAVEL CENTERS LLC**, a Delaware limited liability company, as its sole member

By:   
Printed: Mitchell D. Steenrod  
Its: Sr. VP & CFO

STATE OF TENNESSEE    )  
  ) SS:  
COUNTY OF KNOX        )

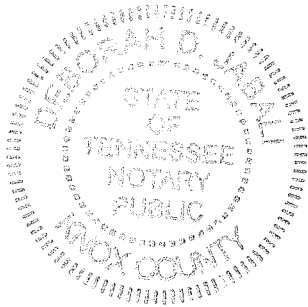
Personally appeared before me, a Notary Public of the State and County aforesaid, Mitchell D. Steenrod, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as Sr. VP & CFO of Pilot Travel Centers LLC, as the sole member of Free V LLC, a Utah limited liability company, the within named bargainer, and that as such, Sr. VP & CFO being duly and fully authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Sr. VP & CFO.

WITNESS my hand and official seal.

This the 12<sup>th</sup> day of Aug., 2010.

  
NOTARY PUBLIC

My Commission Expires: ~~Sept. 1, 2013~~  
My commission expires Sept. 1, 2013



[EXECUTION PAGE OF BORROWER TO CONSENT, ASSIGNMENT,  
ASSUMPTION AND MODIFICATION AGREEMENT]

LENDER:

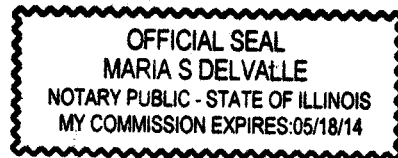
RBS ASSET FINANCE, INC., a New York corporation

By: *[Signature]*  
Printed: RICHARD J PONDEL  
Its: VICE PRESIDENT

STATE OF ILLINOIS     )  
  ) ss.  
COUNTY OF COOK     )

This instrument was acknowledged before me on June 30, 2010 by Richard J Pondel as Vice President of RBS Asset Finance, Inc., a New York corporation.

*[Signature]*  
Notary Public



[EXECUTION PAGE OF LENDER TO CONSENT, ASSIGNMENT, ASSUMPTION AND MODIFICATION AGREEMENT]

**Exhibit A**

**The Sites**

**Blackfoot, Idaho**

**Address:**

1228 Parkway Drive, Blackfoot, Bingham County, Idaho

**Legal Description:**

PART OF THE NE1/4NE1/4 OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 35 E.B.M., BINGHAM COUNTY, IDAHO, DESCRIBED AS: BEGINNING AT A POINT ON THE N. LINE OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 35 E.B.M., THIS IS S. 89°55'10" W. ALONG THE SECTION LINE 247.50 FEET FROM THE LOCALLY ACCEPTED NORTHEAST CORNER OF SAID SECTION 4, WHICH LOCALLY ACCEPTED CORNER IS 17 FEET E. AND 1.6 FEET N. OF THE CORNER SET BY THE CADASTRAL SURVEY IN 1957; THENCE S. 59°03'45" W. 537.91 FEET; THENCE N. 30°56'15" W. ALONG THE EASTERLY RIGHT-OF-WAY LINE OF A CITY ROAD 150.02 FEET; THENCE N. 64°35'14" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF PARKWAY DRIVE 343.74 FEET; THENCE N. 89°55'10" E. ALONG THE N. SECTION LINE OF SAID SECTION 4, 227.96 FEET TO THE POINT OF BEGINNING.

**Grand Ledge, Michigan**

**Address:**

7800 West Grand River, Grand Ledge, Clinton County, Michigan 48837

**Legal Description:**

THAT PART OF THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 28, T5N, R3W, WATERTOWN TOWNSHIP, CLINTON COUNTY, MICHIGAN BEING DESCRIBED AS: COMMENCING AT THE WEST ¼ CORNER OF SECTION 28, T5N, R3W; THENCE SOUTH 00°22'22" WEST, 775.19 FEET ALONG THE WEST LINE OF SECTION 28; THENCE SOUTH 89°37'38" EAST, 33.00 FEET ALONG A RIGHT-OF-WAY FOR TURNAROUND PURPOSES; THENCE NORTH 42°06'26" EAST, 156.00 FEET, CONTINUING ALONG SAID RIGHT OF WAY TO THE LIMITED ACCESS RIGHT OF WAY OF I-69; THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING THREE (3) COURSES: (1) SOUTHEASTERLY 438.24 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 3084.79 FEET, A DELTA ANGLE OF 08°08'23" AND A CHORD BEARING SOUTH 67°42'56" EAST, 437.87 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL: (2) SOUTHEASTERLY, 321.10 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 3084.79 FEET, A DELTA ANGLE OF 05°57'50" AND A CHORD BEARING SOUTH 74°46'02"

EAST, 320.95 FEET; (3) SOUTH 77°43'04" EAST, 474.86 FEET TO THE WEST 1/8 LINE OF SECTION 28; THENCE SOUTH 00°18'48" WEST, 930.79 FEET TO THE CENTERLINE OF GRAND RIVER AVENUE; THENCE NORTH 74°34'13" WEST 408.18 FEET; THENCE NORTH 74°45'30" WEST, 395.05 FEET CONTINUING ALONG SAID CENTERLINE; THENCE NORTH 00°02'22" EAST, 903.69 FEET TO THE POINT OF BEGINNING.

**Saginaw, Michigan**

**Address:**

3475 East Washington Street, Saginaw, Saginaw County, Michigan

**Legal Description:**

PART OF THE SOUTHWEST ¼ OF SECTION 9, TOWN 12 NORTH, RANGE 5 EAST, BUENA VISTA TOWNSHIP, SAGINAW COUNTY, MICHIGAN, BEING FURTHER DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SECTION 9, TOWN 12 NORTH, RANGE 5 EAST; THENCE NORTH 03 DEGREES 56 MINUTES 31 SECONDS EAST, 588.00 FEET, ALONG THE WEST SECTION LINE; THENCE SOUTH 85 DEGREES 14 MINUTES 32 SECONDS EAST, 1258.76 FEET, TO THE WESTERLY LINE OF INTERSTATE I-75; THENCE SOUTH 21 DEGREES 11 MINUTES 53 SECONDS WEST, 534.80 FEET ALONG SAID WESTERLY LINE; THENCE SOUTH 04 DEGREES 45 MINUTES 28 SECONDS WEST, 75.00 FEET, TO THE SOUTH SECTION LINE OF SECTION 9, TOWN 12 NORTH, RANGE 5 EAST; THENCE NORTH 85 DEGREES 14 MINUTES 32 SECONDS WEST, 215.03 FEET, ALONG SAID SECTION LINE; THENCE NORTH 04 DEGREES 45 MINUTES 28 SECONDS EAST, 125.00 FEET; THENCE NORTH 85 DEGREES 14 MINUTES 32 SECONDS WEST, 100.00 FEET; THENCE SOUTH 04 DEGREES 45 MINUTES 28 SECONDS WEST, 125.00 FEET, TO THE SOUTH SECTION LINE; THENCE NORTH 85 DEGREES 14 MINUTES 32 SECONDS WEST, 784.00 FEET, ALONG SAID SECTION LINE TO THE SOUTHWEST CORNER OF SECTION 9, TOWN 12 NORTH, RANGE 5 EAST, AND THE POINT OF BEGINNING.

TAX PARCEL NO. 10-12-5-09-3004-002

**Nephi, Utah**

**Address:**

1597 South Main Street, Nephi, Juab County, Utah

**Legal Description:**

A PART OF THE NORTHEAST QUARTER OF SECTION 17 AND A PART OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 13 SOUTH, RANGE 1 EAST, OF THE SALT LAKE BASE AND MERIDIAN. BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF STATE ROAD 28, LOCATED SOUTH 00°10.10. EAST ALONG

THE SECTION LINE 1206.94 FEET AND NORTH 89°49.50. EAST 44.60 FEET FROM THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 13 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 74°39.20. EAST 600.92 FEET, THENCE SOUTH 48°25.29. EAST 259.30 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 15, THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 42°29.45. WEST 665.06 FEET, THENCE NORTH 74°38.24. WEST 529.72 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD 28, THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 15°18.48. EAST 706.27 FEET TO THE PLACE OF BEGINNING.

TOGETHER WITH:

A PART OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 13 SOUTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN: BEGINNING AT POINT ON THE EAST RIGHT-OF-WAY LINE OF STATE ROAD 28 LOCATED SOUTH 00°10'10" EAST ALONG THE SECTION LINE 908.90 FEET AND SOUTH 89°08'52" EAST 126.55 FEET FROM THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER AND RUNNING THENCE SOUTH 89°08'52" EAST 1214.66 FEET; THENCE NORTH 00°10'10" WEST 28.00 FEET TO AN EXISTING FENCE LINE; THENCE NORTH 89°08'52" WEST ALONG SAID FENCE LINE 1206.94 FEET TO SAID EAST RIGHT-OF-WAY LINE OF STATE ROAD 28; THENCE SOUTH 15°18'48" WEST ALONG SAID EAST RIGHT-OF-WAY LINE 28.92 FEET TO THE POINT OF BEGINNING.

**Lowell, Indiana**

**Address:**

3231 East 181<sup>st</sup> Street, Lowell, Lake County, Indiana

**Legal Description:**

PARCEL I (FEE)

LOT 1 IN WELSH ACRES, AS PER PLAT THEREOF, RECORDED JUNE 27, 2001 IN PLAT BOOK 90, PAGE 38 AS INSTRUMENT NO. 2001-50331 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA

PARCEL II (EASEMENT)

NON-EXCLUSIVE EASEMENT FOR DRAINAGE AS SET OUT IN DRAINAGE EASEMENT, DATED NOVEMBER 28, 1975 AND RECORDED MARCH 30, 1976 AS INSTRUMENT NO. 343728; AND AMENDED BY REVISION TO EASEMENT, DATED JANUARY 1, 2001 AND RECORDED MAY 17, 2001 AS INSTRUMENT NO. 2001-37795

**Hubbard, Ohio**

**Address:**

2226 North Main, Hubbard, Trumbull County, Ohio

**Legal Description:**

SITUATED IN THE TOWNSHIP OF HUBBARD, COUNTY OF TRUMBULL AND STATE OF OHIO AND KNOWN AS BEING A PART OF SECTION 25 OF THE ORIGINAL SURVEY OF SAID TOWNSHIP AND BEING BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE NORTHEAST CORNER OF SECTION 25, ALSO BEING THE INTERSECTION OF THE ORIGINAL CENTERLINE OF THE HUBBARD-BROOKFIELD ROAD, A LIMITED ACCESS HIGHWAY WITH 180 FOOT WIDTH RIGHT-OF-WAY, AND HIBLER ROAD, HAVING A 25 FOOT WIDE RIGHT-OF-WAY, SAID POINT BEING NORTH 82°57'30" WEST, 36.00 FEET FROM AN IRON PIN FOUND IN A MONUMENT BOX ASSEMBLY IN THE CENTERLINE OF SURVEY OF THE HUBBARD-SHARON ROAD (S.R. 7 AND U.S.R. 62); THENCE SOUTH 07°02'30" WEST ALONG THE ORIGINAL CENTERLINE OF SAID HUBBARD-BROOKFIELD ROAD 730.29 FEET TO A POINT, SAID POINT BEING SOUTH 84°35'00" EAST, 44.02 FEET FROM A 5/8" DIAMETER IRON PIN SET (LKN I.D. CAPPED) IN THE WEST LINE OF THE ROAD; THENCE NORTH 84°35'00" WEST A DISTANCE OF 1500.00 FEET TO A 5/8" DIAMETER IRON PIN SET (LKN I.D. CAPPED); THENCE NORTH 05°25'00" EAST 730.00 FEET TO A POINT IN THE NORTH LINE OF SECTION 25 ALSO BEING IN THE CENTERLINE OF HIBLER ROAD, SAID POINT BEING NORTH 05°25'00" EAST, 12.50 FEET FROM A 5/8" DIAMETER IRON PIN SET (LKN I.D. CAPPED) IN THE SOUTH LINE OF THE ROAD; THENCE SOUTH 84°35'00" EAST ALONG THE NORTH LINE OF SECTION 25 AND CENTERLINE OF HIBLER ROAD A DISTANCE OF 1520.71 FEET TO THE POINT OF BEGINNING. CONTAINING WITHIN SAID BOUNDS 25.3113 ACRES OF LAND OF WHICH 0.4236 ACRES IS CONTAINED WITHIN THE RIGHT-OF-WAY OF HIBLER ROAD AND 0.7410 ACRES IS CONTAINED WITHIN THE LIMITED ACCESS RIGHT-OF-WAY OF THE HUBBARD-BROOKFIELD ROAD, S.R. 7, U.S.R. 62, BUT SUBJECT TO ALL LEGAL HIGHWAYS AND EASEMENTS OF RECORD, AS SURVEYED AND DESCRIBED BY LYNN, KITTINGER & NOBLE, INC., PROFESSIONAL SURVEYORS, BY CARROLL L. HERMANN, P.S., OHIO 5662, SEPTEMBER 2000. AND KNOWN AS BEING A PART OF THAT LAND CONVEYED BY COOJAR REALTY CORP. TO CHARLES E. MARGALA, JR. AND EDWARD C. MARGALA AS RECORDED IN VOLUME 981 AT PAGE 169 OF THE TRUMBULL COUNTY RECORD OF DEEDS.

PPN: 01-901947

EXCEPTING THEREFROM THE FOLLOWING:

SITUATED IN THE TOWNSHIP OF HUBBARD, COUNTY OF TRUMBULL, STATE OF OHIO, AND KNOWN AS BEING A PART OF SECTION 25 IN THE ORIGINAL SURVEY OF SAID TOWNSHIP, AND BEING BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE NORTHEAST CORNER OF SECTION 25 AND IN THE ORIGINAL CENTERLINE OF THE HUBBARD-BROOKFIELD ROAD, A LIMITED ACCESS HIGHWAY WITH VARIABLE WIDTH, SAID POINT BEING NORTH  $82^{\circ}57'30''$  WEST, 36.00 FEET FROM A MONUMENT FOUND IN THE CENTERLINE OF THE HUBBARD-SHARON ROAD, STATE ROUTE 7 AND U.S. 62; THENCE NORTH  $84^{\circ}35'00''$  WEST, ALONG THE NORTH LINE OF SECTION 25, BEING THE CENTERLINE OF HIBLER ROAD (25-FOOT RIGHT-OF-WAY), 1520.71 FEET TO A POINT; THENCE SOUTH  $05^{\circ}25'00''$  WEST, 12.50 FEET TO AN IRON PIN SET IN THE SOUTH LINE OF HIBLER ROAD, SAID POINT BEING THE TRUE PLACE OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE SOUTH  $84^{\circ}35'00''$  EAST, ALONG THE SOUTH LINE OF HIBLER ROAD, A DISTANCE OF 143.42 FEET TO AN IRON PIN SET; THENCE SOUTH  $05^{\circ}25'00''$  WEST, ALONG A LINE, A DISTANCE OF 220.83 FEET TO AN IRON PIN SET; THENCE SOUTH  $20^{\circ}49'39''$  WEST, ALONG A LINE, A DISTANCE OF 235.87 FEET TO AN IRON PIN SET; THENCE SOUTH  $11^{\circ}12'51''$  WEST, ALONG A LINE, A DISTANCE OF 145.80 FEET TO AN IRON PIN SET; THENCE SOUTH  $00^{\circ}22'42''$  EAST, ALONG A LINE, A DISTANCE OF 124.86 FEET TO AN IRON PIN SET IN THE GRANTOR'S SOUTHERN PROPERTY LINE; THENCE NORTH  $84^{\circ}35'00''$  WEST, ALONG THE GRANTOR'S SOUTHERLY PROPERTY LINE, A DISTANCE OF 78.62 FEET TO AN IRON PIN SET; THENCE SOUTH  $05^{\circ}25'00''$  EAST, ALONG THE GRANTOR'S WESTERN PROPERTY LINE, A DISTANCE OF 717.50 FEET TO THE POINT OF BEGINNING; CONTAINING WITHIN SAID BOUNDS 1.763 ACRE OF LAND WITHIN LANDS CONVEYED TO AFJ, LLC, A DELAWARE LIMITED LIABILITY COMPANY, BY WARRANTY DEED FROM EDWARD C. MARGALA (MARRIED), AND CHARLES E. MARGALA, JR. (MARRIED) DATED JULY 16, 2002 AND RECORDED IN INSTRUMENT NO. 200207220027340 OF THE TRUMBULL COUNTY RECORDS OF DEEDS, AS SURVEYED BY LYNN, KITTINGER & NOBLE, INC., PROFESSIONAL SURVEYORS, WARREN, OHIO, BY CARROLL L. HERRMANN, P.S., OHIO #5663. ALL IRON PINS SET ARE 5/8" DIAMETER BY 30", WITH "LKN 5663" ID CAP.

ALSO EXCEPTING THEREFROM:

THAT PORTION OF FLYING J ROAD AS SHOWN ON THE FLYING J ROAD DEDICATION PLAT RECORDED IN VOLUME 54 OF MAPS, PAGE 28 AND INSTRUMENT NO. 200604190010995 OF TRUMBULL COUNTY RECORDS.

## **Schedule I**

### **The Mortgages**

#### **Blackfoot, Idaho**

Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of October 18, 2006 by Borrower in favor of First American Title Insurance Company, as trustee for the benefit of Lender, recorded October 23, 2006 in the Official Records of Bingham County, Idaho as Instrument No. 573181.

#### **Grand Ledge, Michigan**

Mortgage dated as of October 18, 2006 by Borrower in favor of Lender, recorded October 23, 2006 in the Official Records of Clinton County, Michigan as Instrument No. 5108019.

#### **Saginaw, Michigan**

Mortgage dated as of October 18, 2006 by Borrower in favor of Lender, recorded November 6, 2006 in the Official Records of Saginaw County, Michigan in Liber 2409, Page 1549.

#### **Nephi, Utah**

Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of October 18, 2006 by Borrower in favor of First American Title Insurance Company, as trustee for the benefit of Lender, recorded October 25, 2006 in the Official Records of Juab County, Utah as Instrument No. 00245552, in Book 0498, Page 0899.

#### **Lowell, Indiana**

Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of December 31, 2003 by Borrower in favor of Lender, recorded January 7, 2004 in the Official Records of Lake County, Indiana as Instrument No. 2004-001593.

#### **Hubbard, Ohio**

Open-End Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of May 27, 2008 by Borrower in favor of First American Title Insurance Company, as trustee for the benefit of Lender, recorded May 29, 2008 in the Official Records of Trumbull County, Ohio as Instrument No. 200805290013638.



## **Schedule II**

### **The Subordination Agreements**

#### **Blackfoot, Idaho**

Subordination and Attornment Agreement dated as of October 18, 2006 by and among Assignor, Borrower and Lender, recorded October 23, 2006 in the Official Records of Bingham County, Idaho as Instrument No. 573182.

#### **Grand Ledge, Michigan**

Subordination and Attornment Agreement dated as of October 18, 2006 by and among Assignor, Borrower and Lender, recorded November 6, 2006 in the Official Records of Clinton County, Michigan as Instrument No. 5108020.

#### **Saginaw, Michigan**

Subordination and Attornment Agreement dated as of October 18, 2006 by and among Assignor, Borrower and Lender, recorded November 6, 2006 in the Official Records of Saginaw County, Michigan in Liber 2409, Page 1549.

#### **Nephi, Utah**

Subordination and Attornment Agreement dated as of October 18, 2006 by and among Assignor, Borrower and Lender, recorded October 25, 2006 in the Official Records of Juab County, Utah as Instrument No. 00245553, in Book 0498, Page 0934.

#### **Lowell, Indiana**

Subordination and Attornment Agreement dated as of December 31, 2003 by and among Assignor, Borrower and Lender, recorded January 7, 2004 in the Official Records of Lake County, Indiana as Instrument No. 2004-001594.

#### **Hubbard, Ohio**

Subordination and Attornment Agreement dated as of May 27, 2008 by and among Assignor, Borrower and Lender, recorded May 29, 2008 in the Official Records of Trumbull County, Ohio as Instrument No. 200805290013641

### **Schedule III**

#### **The Environmental Indemnity Agreements**

##### **Blackfoot, Idaho**

Environmental Indemnity Agreement dated as of October 18, 2006 by Assignor and Borrower for the benefit of Lender.

##### **Grand Ledge, Michigan**

Environmental Indemnity Agreement dated as of October 18, 2006 by Assignor and Borrower for the benefit of Lender.

##### **Saginaw, Michigan**

Environmental Indemnity Agreement dated as of October 18, 2006 by Assignor and Borrower for the benefit of Lender.

##### **Nephi, Utah**

Environmental Indemnity Agreement dated as of October 18, 2006 by Assignor and Borrower for the benefit of Lender.

##### **Lowell, Indiana**

Environmental Indemnity Agreement dated as of December 31, 2003 by Assignor and Borrower for the benefit of Lender.

##### **Hubbard, Ohio**

Environmental Indemnity Agreement dated as of May 27, 2008 by Assignor and Borrower for the benefit of Lender.