

20091118000430080 1/9 \$36.00  
Shelby Cnty Judge of Probate, AL  
11/18/2009 03:35:31 PM FILED/CERT

THIS INSTRUMENT WAS PREPARED BY: **Store No. 1649**  
**Shelby County, Alabama**

Athy A. Mobilia, Esq.  
Cahill Gordon & Reindel LLP  
80 Pine Street  
New York, NY 10005  
(212) 701-3000

WHEN RECORDED RETURN TO ABOVE

**FIRST AMENDMENT TO  
MORTGAGE, SECURITY AGREEMENT, FIXTURE FILING  
AND FINANCING STATEMENT**

**BETWEEN**

**NPC INTERNATIONAL, INC.**

**TAX ID NO. 48-0817298  
ORGANIZATIONAL IDENTIFICATION NO. 382580**

**AND**

**JPMORGAN CHASE BANK, N.A.  
AS COLLATERAL AGENT**

**TAX ID NO. 13-4994650**

ATTENTION: FILING OFFICER—THIS INSTRUMENT COVERS GOODS THAT ARE OR ARE TO BECOME FIXTURES ON THE REAL PROPERTY DESCRIBED HEREIN AND IS TO BE FILED AS A FIXTURE FILING IN ALL STATES WHERE THE MORTGAGED PROPERTY IS LOCATED. ADDITIONALLY, THIS INSTRUMENT SHOULD BE APPROPRIATELY INDEXED, NOT ONLY AS A MORTGAGE AMENDMENT, BUT ALSO AS A FIXTURE FILING AND FINANCING STATEMENT COVERING GOODS THAT ARE OR ARE TO BECOME FIXTURES ON THE REAL PROPERTY DESCRIBED HEREIN. THE MAILING ADDRESSES OF THE MORTGAGOR (DEBTOR) AND MORTGAGEE (SECURED PARTY) ARE SET FORTH IN THIS INSTRUMENT.

**TO THE EXTENT PERMITTED BY APPLICABLE LAW, A POWER OF SALE HAS BEEN GRANTED IN THE MORTGAGE BEING AMENDED HEREBY. A POWER OF SALE MAY ALLOW MORTGAGEE TO TAKE THE MORTGAGED PROPERTY AND SELL IT WITHOUT GOING TO COURT IN A FORECLOSURE ACTION UPON DEFAULT BY MORTGAGOR UNDER THIS MORTGAGE.**

THE FINAL MATURITY DATE OF THE INDEBTEDNESS SECURED HEREBY has not been extended

**FIRST AMENDMENT TO MORTGAGE, SECURITY AGREEMENT,  
FIXTURE FILING AND FINANCING STATEMENT**

**THIS FIRST AMENDMENT TO MORTGAGE, SECURITY AGREEMENT, FIXTURE FILING AND FINANCING STATEMENT** (the "First Amendment") is dated as of August 28, 2009 (the "Effective Date"), by NPC INTERNATIONAL, INC., a corporation formed under the laws of the State of Kansas (the "Mortgagor") whose address is 720 West 20th Street, Pittsburg, KS 66762, for the benefit of JPMORGAN CHASE BANK, N.A. ("JPMC"), a national association, in its capacity as collateral agent for the Secured Parties (the "Collateral Agent") whose address is 712 Main Street, 8th Floor North, Houston, TX 77002 (the "Mortgagee"). Capitalized terms used in this First Amendment shall have the same meanings as in the Mortgage (as defined below) unless otherwise defined in this First Amendment.

**RECITALS**

A. Mortgagor owns certain real property (including improvements and fixtures located thereon or thereat) in Jefferson County in the State of Alabama, which real property is more particularly described in Exhibit A (the "Land").

B. Mortgagor previously executed and delivered to Mortgagee that certain Mortgage, Security Agreement, Fixture Filing and Financing Statement dated as of May 3, 2006 and recorded on August 21, 2006 in Book LR200614 at Page 430 in the Office of the Judge of Probate of the County of Jefferson, State of Alabama (the "Mortgage"), which Mortgage encumbers the Land and other Mortgaged Property (as defined therein) and personal property and other property related to the Mortgaged Property, as more fully described in the Mortgage.

C. As more fully described in the Mortgage, the Mortgage secures all Secured Obligations arising under the Mortgage and/or under that certain Credit Agreement dated as of May 3, 2006, among the Mortgagor, certain other parties thereto and the Collateral Agent, and as more fully described in the Mortgage (such Credit Agreement, as amended on May 31, 2006, and November 10, 2006, the "Credit Agreement"), as either the Secured Obligations or the Credit Agreement may be further amended, restated, supplemented or otherwise modified from time to time, with or without record notice of such restatement, supplementation or other modification.

D. On October 8, 2008, Mortgagor and Mortgagee amended and supplemented the Credit Agreement pursuant to the terms and conditions of that certain Increase Joinder dated October 8, 2008, among the Mortgagor, certain other parties thereto and JPMC, as Administrative Agent (the "Increase Joinder Agreement"). The Increase Joinder Agreement provides for, among other things, the funding by INTRUST BANK, N.A. of \$40,000,000 of the \$100,000,000 incremental term loan commitment provided for in the Credit Agreement, in accordance with Section 2.12 of the Credit Agreement, and certain other changes in the terms and conditions of the loans now or in the future outstanding under the Credit Agreement (all such loans, collectively, the "Credit").

E. Mortgagor and Mortgagee desire to give notice of the supplement to the Credit Agreement reflected in the Increase Joinder Agreement and to confirm that the Mortgage



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remains in full force and effect, except only to the extent expressly modified by this First Amendment.

F. The debt consisting of the Credit is continuing, is not being repaid or discharged in whole or in part, and no change has been made to the Credit except pursuant to the Increase Joinder Agreement and the amendments described above.

NOW, THEREFORE, Mortgagor and Mortgagee agree and give notice as follows.

1. Amendment.

The Mortgage is hereby amended as follows:

1.1. Definition of "Credit Agreement". Whenever referred to in the Mortgage or in any related document, "Credit Agreement" shall mean the Credit Agreement, as amended and supplemented by the Increase Joinder Agreement, as the Credit Agreement may be further amended, restated, supplemented or otherwise modified from time to time, including any modification changing the amount, the interest rate or other terms of the Credit or the Secured Obligations or giving notice of any such changes, and such term shall also include and refer to any increase in the amount of indebtedness under the Credit Agreement and any refinancing or replacement of the Credit Agreement (whether under a bank facility, securities offering or otherwise) or one or more successor or replacement facilities whether or not with a different group of agents or lenders (whether under a bank facility, securities offering or otherwise) and whether or not with different obligors upon the Collateral Agent's acknowledgment of the termination of the predecessor Credit Agreement.

1.2. Definition of "Mortgage". Whenever referred to in the Mortgage or in any related document, "Mortgage" shall mean the Mortgage, as amended by this First Amendment, as the Mortgage may be further amended, restated, supplemented or otherwise modified from time to time, including any modification changing the amount, the interest rate or other terms of the Credit or the Secured Obligations or giving notice of any such changes. Any future amendment, restatement, supplementation, or other modification of the Mortgage may or may not be recorded.

1.3. Intentionally Omitted.

1.4. Definition of "Maximum Amount of Indebtedness". Whenever referred to in the Mortgage or in any related document, including, without limitation, in the Preamble and Sections 2.03, 2.06, 2.07 and 2.08, all references to \$375,000,000 shall be replaced with \$415,000,000.

1.5. Other Defined Terms. Wherever any defined term used in the Mortgage is redefined in Section 1 of this First Amendment, such redefinition shall apply to such term as used in the Mortgage.



1.6. Taxes. Mortgagor shall pay all mortgage recording taxes, filing fees, recording fees, and other taxes imposed or assessed upon this First Amendment, including all taxes, penalties, and interest for the foregoing.

1.7. Identification Number. The Organizational Identification No. for NPC International, Inc. set forth on the cover of the Mortgage is hereby corrected and restated to be 382580.

1.8. Applicable Law. Section 8.13 of the Mortgage is hereby amended to replace the phrase "AND THE BORROWER'S PRINCIPAL PLACE OF BUSINESS IS IN THE STATE OF DELAWARE" with the phrase "AND THE BORROWER'S PRINCIPAL PLACE OF BUSINESS IS IN THE STATE OF KANSAS."

1.9. Tax Identification Number. The Tax ID No. for JPMorgan Chase Bank, N.A. set forth on the cover of the Mortgage is hereby corrected and restated to be 13-4994650.

1.10. Definition of Security Instrument. Wherever used in the Mortgage, the capitalized terms "Security Document" and "Security Documents" shall be deemed to be replaced with "Security Instrument" and "Security Instruments", respectively.

2. Effect of Amendment; Confirmation and Ratification of Mortgage.

Except as expressly modified hereby, the provisions of the Mortgage are and shall remain in full force and effect. In all other respects Mortgagor and Mortgagee fully confirm and ratify the Mortgage, the Credit Agreement, and any other document(s) related to the Credit (collectively, the "Credit Documents") except as expressly modified pursuant to this First Amendment or the Increase Joinder Agreement. Nothing in this First Amendment is intended to waive any rights or remedies of Mortgagee under the Mortgage, or (except to the extent, if any, expressly stated herein) any defaults of Mortgagor under the Mortgage. The Mortgage shall continue to be a valid and subsisting lien against the Mortgaged Property. This First Amendment does not constitute a novation with respect to the Secured Obligations. If it is determined that any person or entity except Mortgagee has a lien, encumbrance, or claim of any type with priority over any term of this First Amendment, the original terms of the Credit Agreement and Mortgage shall be severable from this First Amendment and separately enforceable from the terms thereof (as modified hereby) in accordance with their original terms, and Mortgagee shall maintain all legal or equitable priorities that existed before the Effective Date. Any legal or equitable priorities of Mortgagee over any party that existed before the Effective Date shall remain in effect after the Effective Date.

3. No Change in Mortgage Priority.

3.1. Definition: Junior Lien Claimant. A "Junior Lien Claimant" means any holder of any interest or claim that affects any Mortgaged Property or estate or interest therein, which interest or claim is recorded after the date the Mortgage was originally recorded or that is otherwise, or is intended to be, junior and subordinate to the lien of the Mortgage.

3.2. Change to Secured Obligations. The Secured Obligations may, from time to time, be amended, modified, extended, renewed, restated, increased, repledged, supplemented,





or otherwise changed (any of the foregoing, a “Change”). Changes may include any or all of the following, none of which shall impair the priority of the lien of the Mortgage as against the liens of Junior Lien Claimants: (i) complete or partial amendment and restatement of any or all terms and conditions of the Secured Obligations; (ii) modifications of the required principal and/or interest payment dates, deferring or accelerating such payment dates in whole or in part; (iii) modifications, extensions or renewals at a different rate of interest; (iv) increases in any amount in the principal or interest rate of the Credit; and/or (v) modifications or additional amounts advanced with respect to the Credit.

3.3. Effect of Change(s). The Mortgage (as amended by this First Amendment and as it may be further amended with or without record notice of such amendment) shall continue to secure the Secured Obligations, with the same priority of lien as the Mortgage, even if the Secured Obligations are subject to Change, whether or not: (a) any notice is recorded with respect to such Change; (b) such Change increases the principal amount (subject to any express limitations thereon set forth in the Mortgage) or the interest rate of the Credit or otherwise adversely affects Junior Lien Claimants; or (c) Mortgagor executes or delivers new or additional note(s) to evidence or confirm such Change. The execution and delivery of this First Amendment, or of any subsequent or prior (if any) amendment of the Mortgage, shall not impair, reduce or subordinate, in whole or in part, the priority of the Mortgage. The Secured Obligations (taking into account the effect of the Change) shall continue to be secured by the Mortgage, with the same priority of lien, even if any such Change occurs.

3.4. Notice to Junior Lien Claimants. Sections 2.03 and 2.08 of the Mortgage provided, and gave full record notice to all potential Junior Lien Claimants, that the Mortgage was intended to secure the Secured Obligations arising not only under the Credit Agreement as originally executed and delivered, but also under any amendments, restatements, supplements, or other modifications of the Credit Agreement. Any of the foregoing could potentially include modifications that could increase the amount of the Credit, increase the interest rate of the Credit, or otherwise adversely affect Junior Lien Claimants. All actual and potential Junior Lien Claimants are hereby placed on notice that the Secured Obligations are subject to Change(s). By taking or accepting its interest in the Mortgaged Property subject to the Mortgage, every Junior Lien Claimant understands, acknowledges, and agrees that the priority and validity of the lien of the Mortgage shall not be impaired or limited in any way by any Change. Notwithstanding the magnitude or nature of any Change, such Change shall under no circumstances be deemed to constitute a novation with respect to any Obligation, or otherwise impair or reduce the priority of the lien of the Mortgage. Mortgagor acknowledges that the effect of the foregoing is to preclude Mortgagor from obtaining additional financing secured by the Mortgaged Property. Mortgagor acknowledges that Mortgagee would not make the Credit or enter into this First Amendment unless Mortgagor were precluded from obtaining additional financing secured by the Mortgaged Property.

3.5. Interaction with Credit Documents. The foregoing provisions relating to Junior Lien Claimants shall not be deemed to limit, or waive any restrictions or prohibitions on transfers (including restrictions or prohibitions on junior liens) set forth in the Credit Documents.

4. Credit Agreement Supplement.

The parties hereby give notice that the Credit Agreement has been amended and restated, supplemented, or otherwise modified pursuant to the Increase Joinder Agreement.

5. Future Amendments.

The Mortgage, as amended by this First Amendment, cannot be altered, amended, modified, terminated, waived, released, or discharged, except in a writing signed by the parties or their successors or assigns. Any amendment of the Credit Documents or of the Secured Obligations may or may not be recorded. All Junior Lien Claimants are hereby placed on notice of the possibility that the Credit Documents or the Secured Obligations may be amended but any such amendment may or may not be placed of record. Any such amendment shall be fully effective whether or not recorded, without thereby impairing or reducing the priority of the lien of the Mortgage or constituting a novation. Junior Lien Claimants should not assume they will be notified of any amendment of the Credit Documents or of the Secured Obligations that occurs before or after the recording of their lien. By accepting their interest in the Mortgaged Property, Junior Lien Claimants acknowledge and consent to the foregoing.

No more text on this page.



IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be executed by its duly authorized Susan Delhant on the date of the acknowledgment of the Mortgagor's signature below, to be effective as of the day and year first above written. This First Amendment may be executed in counterparts.

MORTGAGOR

NPC INTERNATIONAL, INC.,  
a Kansas corporation

By: Susan Delhant  
Name: Susan Delhant  
Title: Assistant Secretary

[See Next Page for Mortgagee's Signature.]

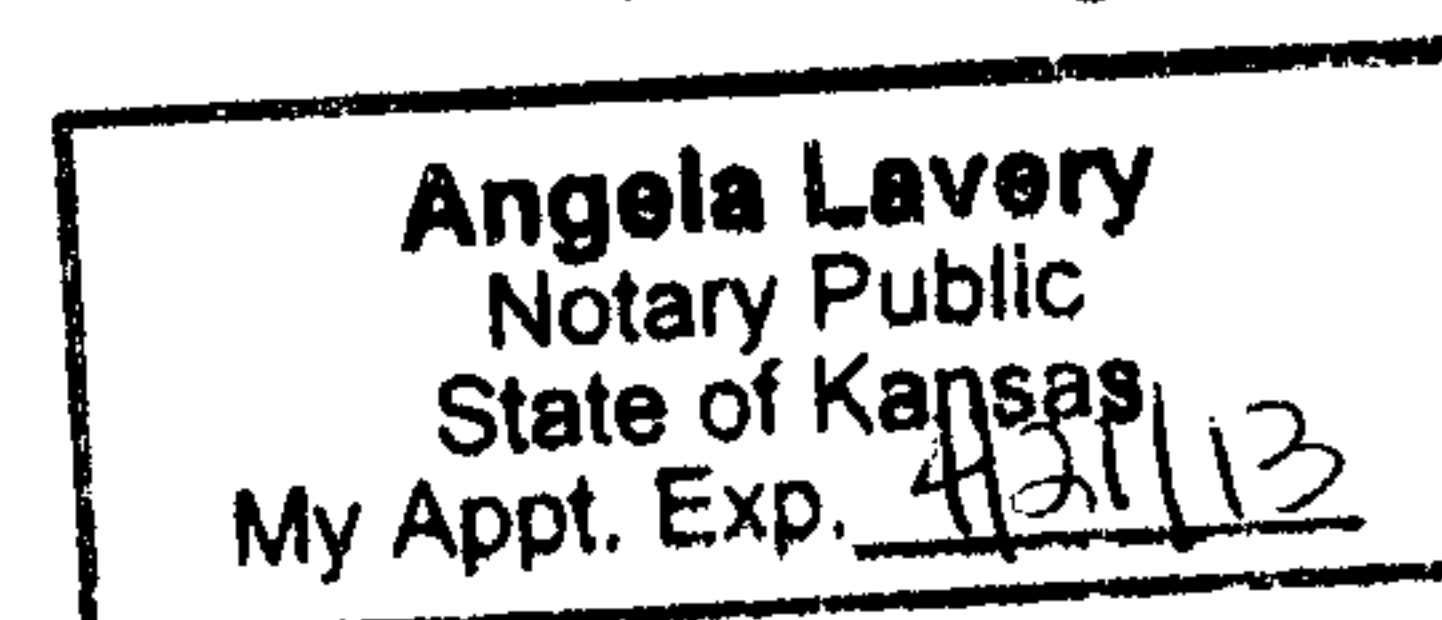
STATE OF KANSAS       §  
                                  §  
COUNTY OF CRAWFORD §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Susan Delhant, whose name as Assistant Secretary of NPC International, Inc., a Kansas corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 8 day of October, 2009.

Angela Lavery  
Notary Public for the State of KANSAS

[AFFIX SEAL]



My Commission Expires: 4/21/13

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MORTGAGEE

JPMORGAN CHASE BANK, N.A.,  
as collateral agent

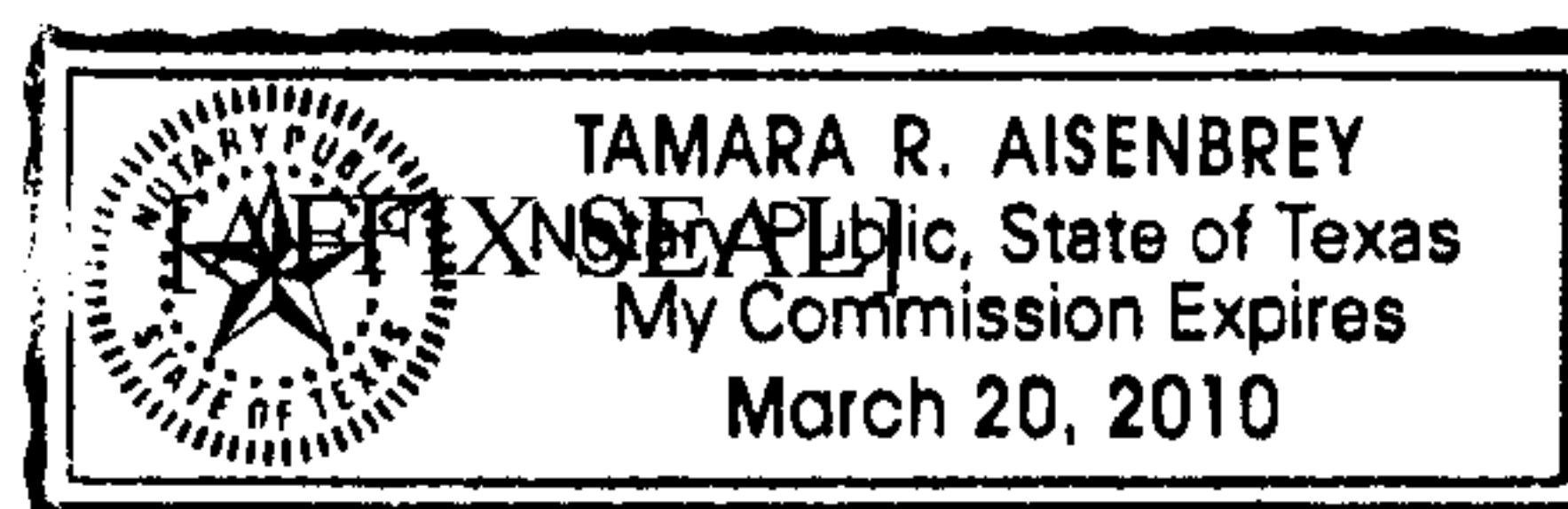
By: RA 2 Mendoza  
Name: **ROBERT L. MENDOZA**  
Title: **VICE PRESIDENT**

STATE OF Texas §  
COUNTY OF Harris §


I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Robert L. Mendoza whose name as Vice President of JPMORGAN CHASE BANK, N.A., a national association, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 10 day of Oct., 2009.

Tamara R. Aisenbrey  
Notary Public for the State of Texas



My Commission Expires: 3-20-2010

  
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## EXHIBIT A

### Legal Description

All that certain (or those certain) parcel(s), plot(s) or piece(s) of real property, including improvements and fixtures, more particularly described as follows, located in the counties more particularly described as follows or on the supplemental page(s) attached hereto:

Part of the Southeast 1/4 of Section 31, Township 19 South, Range 2 West, Shelby County, Alabama, more particularly described as follows:

Begin at a 5/8 inch rebar marking the Intersection of the Southeasterly right of way line of Oak Mountain Circle (25 foot right of way) with the Southwesterly right of way line of State Park Road (variable width right of way); thence South 35°21'43" East along said right of way line of State Park Road a distance of 142.98 feet to a rebar; thence South 13°14'33" East along said right of way line a distance of 23.50 feet to an "X" in concrete; thence South 68°48'16" West a distance of 205.16 feet to a half inch rebar; thence North 31°41'12" West a distance of 127.62 feet to a half inch rebar on said Southeasterly right of way line of Oak Mountain Circle; thence North 58°18'46" East along said right of way line a distance of 200.00 feet to the Point of Beginning.