

Prepared By:  
Karen Salpietro  
Quanta Finance, LLC  
4195 E Thousand Oaks Blvd  
Westlake Village, CA 91362  
Loan No.: 1817-2067-1804-1  
Parcel No.: 08-8-33-3-002-058-000



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WHEN RECORDED RETURN TO:  
SERVION COMMERCIAL TITLE  
500 MAIN STREET SUITE 210  
NEW BRIGHTON MN 55112

057921

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

**NOTICE: THE PROMISSORY NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE. THE UNPAID PRINCIPAL BALANCE OF THE LOAN, EXCLUSIVE OF ANY ADVANCES MADE BY LENDER TO PROTECT ITS SECURITY, MAY REACH THE SUM OF ONE HUNDRED FIFTY-EIGHT THOUSAND SEVEN HUNDRED SIXTY DOLLARS AND NO CENTS (\$158,760.00)**

**THIS DEED OF TRUST SECURES A REVOLVING LINE OF CREDIT, WHICH MEANS, AMONG OTHER THINGS, THAT TRUSTOR HAS THE RIGHT TO RECEIVE MULTIPLE PRINCIPAL ADVANCES UNDER THE LOAN AGREEMENT AND OTHER LOAN DOCUMENTS SECURED BY THIS DEED OF TRUST AND TO BORROW, REPAY AND THEN RE-BORROW SUCH PREVIOUSLY REPAID PRINCIPAL ADVANCES. ALL SUCH ADVANCES, ADDITIONAL ADVANCES AND RE-BORROWED AMOUNTS SHALL RETAIN THE SAME PRIORITY AS THIS DEED OF TRUST.**

**THIS INSTRUMENT IS ALSO TO BE FILED AS A FIXTURE FILING IN THE INDEX OF FINANCING STATEMENTS AND SHOULD BE INDEXED UNDER THE NAMES OF MORTGAGOR, AS DEBTOR, AND MORTGAGEE, AS SECURED PARTY**

**THIS MORTGAGE IS FILED AS AND SHALL CONSTITUTE A FIXTURE FILING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-9A-502(c) OF THE CODE OF ALABAMA**

WHEN RECORDED RETURN TO:  
SERVION COMMERCIAL TITLE  
500 MAIN STREET SUITE 210  
NEW BRIGHTON MN 55112

057921A

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

THIS DOCUMENT CONSTITUTES A FIXTURE FILING IN ACCORDANCE WITH THE ALABAMA  
COMMERCIAL CODE.

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING ("**Mortgage**"), is executed to be effective as of May 8, 2018, by SPA 2, LLC, a Delaware limited liability company, having its principal place of business at 5009 N. Central Ave., Tampa, FL 33603 ("**Mortgagor**"), in favor of Quanta Finance, LLC having an address at 4195 E. Thousand Oaks Blvd., Suite 201, Westlake Village, California 91362 (hereinafter referred to as "**Mortgagee**").

**WITNESSETH:**

**FOR GOOD AND VALUABLE CONSIDERATION**, including the extension of certain indebtedness to Mortgagor which is secured hereby, the receipt of which is hereby acknowledged, Mortgagor hereby irrevocably and unconditionally mortgages, warrants, grants, transfers, pledges, sets over, bargains, sells, conveys and assigns to Mortgagee, and transfers and grants to Mortgagee a security interest in, all estates, rights, title and interest which Mortgagor now has or may later acquire in and to the following properties, rights and interests:

A. The Mortgagor owns a fee simple interest in the real estate located in Shelby County, Alabama more particularly described in Exhibit "A", attached hereto and incorporated herein ("**Real Estate**"), Commonly known as 100 Willow Lake Lane, Wilsonville, AL 35186; and

B. All of the present and future estates, interests, and rights of Mortgagor in and to (i) the Real Estate, (ii) all real estate in which Mortgagor may now or hereafter acquire an interest by reason of any accession or accretion with respect to the Real Estate and (iii) all real estate situated within the rights-of-way of any streets, alleys and roads adjoining the Real Estate; and

C. All buildings, structures, improvements, and fixtures (including but not limited to all lighting fixtures and mechanical equipment) now or hereafter erected or placed in or upon the Real Estate or now or hereafter attached to or used in connection with the Real Estate to the extent such items may be considered part of the Real Estate under applicable law; and

D. All tenements, hereditaments, easements, appurtenances and other rights and privileges thereunto now or hereafter attaching and belonging, or in any way appertaining to the Real Estate, including without limitation (i) all surface and subsurface soils, (ii) all minerals, elements, oil, gas, and other commercially valuable substances which may be in, under or produced from any part of the Real Estate, and all (iii) air rights, water, and water rights; and

E. All rents, issues, profits, income, cash, proceeds, accounts, accounts receivable, instruments, letter of credit rights, insurance proceeds, deposit and other accounts, contract rights and general intangibles arising of or from the Real Estate or the improvements from time to time located thereon, including but not limited to the rents, income and profits arising from the operation of any business and all fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in any hotel, motel, or other lodging properties located on the Real Estate (funds obtained as such rents, income, profits, fees, charges, accounts or other payments and held in any reserve, account or credit balance shall retain the character of such rents, income, profits, fees, charges, accounts or other payments); and

F. All interests, estates or other rights and claims, arising in law or in equity, which Mortgagor now has or may hereafter acquire in any of the foregoing, including without limitation any greater estate Mortgagor may hereafter acquire in the Real Estate or improvements located thereon (the interests, estates and other rights and claims described in paragraphs A through F are hereinafter collectively referred to as the "**Mortgaged Property**"); and

G. All leases, subleases, subtenancies, licenses, occupancy agreements and other agreements for the leasing, use, occupancy or enjoyment of any portion or all of the Mortgaged Property now or hereafter existing, and all amendments, renewals, and extensions thereof (hereinafter collectively referred to as the "**Leases**"); and

H. All present and future guaranties of the performance of any lessee under any of the Leases; and

I. All monies, deposit accounts, furniture, equipment, inventory, fixtures, accounts, accounts receivable, chattel paper, documents, investment property, trademarks and all trade name agreements, logos, licenses, instruments, contract rights, insurance proceeds, commercial tort claims, franchise agreements, software, letter of credit rights, and general intangibles (including payment intangibles) in



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which Mortgagor now or hereafter has an interest, individually or with others, and which are located upon, used in connection with, related to or arising out of the Mortgaged Property, and all additions, accessions and accretions to, replacements and substitutions for, products of and proceeds from any of the foregoing; and

J. All insurance policies relating to the Mortgaged Property and all claims and rights to payment of proceeds and other sums payable thereunder or in connection therewith; and

K. All awards, compensation and settlements in lieu thereof made as a result of the taking by power of eminent domain of the whole or any part of the Mortgaged Property, including any awards for damages sustained to the Mortgaged Property, for a temporary taking, change of grade of streets or taking of access; and

L. All present and future deposits and revenues relating to the Mortgaged Property, including without limitation security deposits, replacement revenue escrows, tax and insurance escrows and working capital reserves or escrows; and

M. All present and future building permits, operating permits, variances, licenses, governmental approvals, utility permits and other permits, licenses and agreements relating to the construction, equipping, operation or maintenance of the Mortgaged Property including, without limitation, all warranties and contract rights, whether now owned by Mortgagor or hereafter acquired or arising; and

N. All present and future contracts or agreements for the design, construction, furnishing and equipping of the improvements located or to be located on the Mortgaged Property, together with any existing or future changes, extensions, revisions, modifications, guarantees of performance or warranties of any kind thereunder, whether now owned by Mortgagor or hereafter acquired or arising; and

O. All present and future service and other agreements relating to the operation, management, maintenance and repair of the Mortgaged Property or the buildings and improvements thereon, whether now owned by Mortgagor or hereafter acquired or arising; and

P. All present and future plans and specifications, surveys, site plans, soil reports, drawings and papers relating to the Mortgaged Property and the development, design, construction and equipping of the improvements on the Mortgaged Property, whether now owned by Mortgagor or hereafter acquired or arising; and

Q. All building supplies and materials ordered or purchased for use in connection with the construction and equipping of the improvements on the Mortgaged Property, whether now owned by Mortgagor or hereafter acquired or arising; and

R. All proceeds and contract rights and payments payable to Mortgagor under any loan commitment for financing of the Mortgaged Property; and

S. All present and future purchase and sale agreements for the purchase of any portion of the Mortgaged Property or other property located on the Mortgaged Property, including without limitation, security deposits, earnest money deposits, association fees or assessments, and related escrows; and

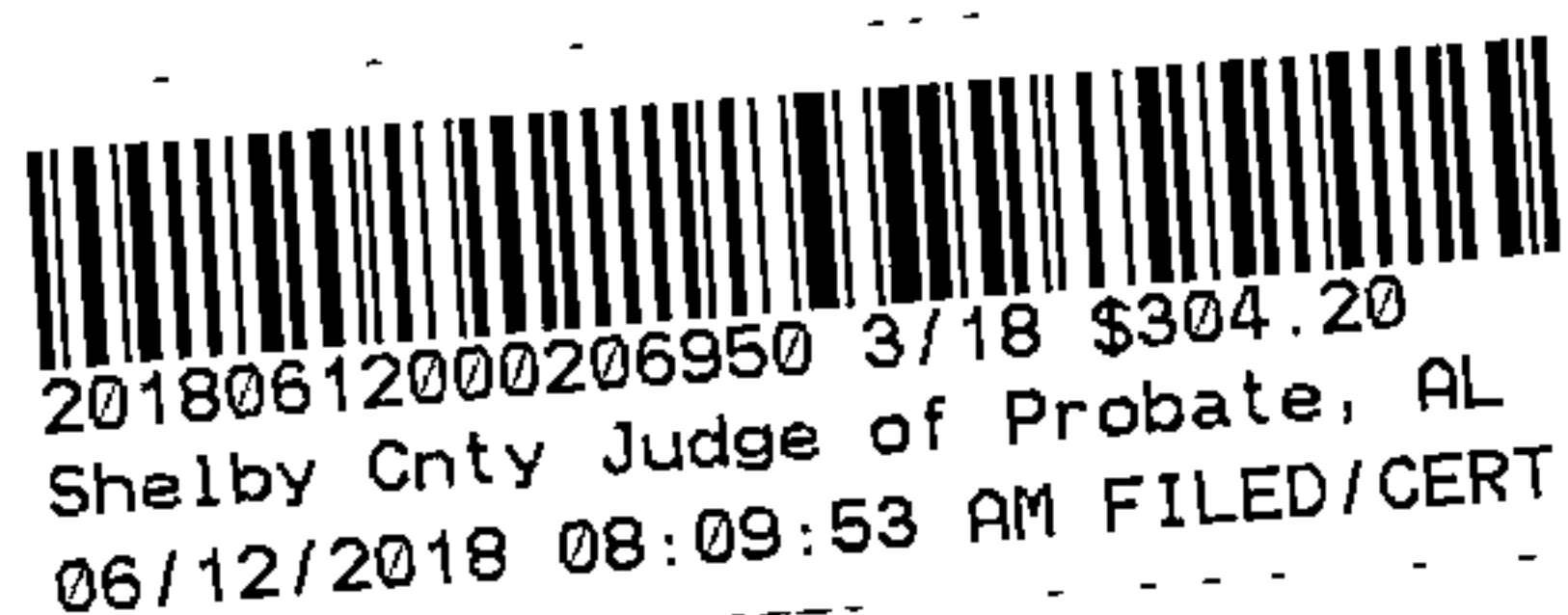
T. All additions, accessions, and accretions to, replacements and substitutions for, products of and proceeds from any of the property described above.

The property, rights and claims described in paragraphs H through T above are hereinafter collectively referred to as the "Chattel Property".

**TO HAVE AND TO HOLD** such property unto Mortgagee, its successors and assigns forever, and Mortgagor does hereby bind itself, its successors, and assigns, to **WARRANT AND FOREVER DEFEND** title to the Real Estate, the Mortgaged Property, the Leases, and the Chattel Property unto Mortgagee against every person whomsoever claiming or to claim the same or any part thereof.

**MORTGAGOR HEREBY FURTHER REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:**

1. The Indebtedness and Obligations Secured. Mortgagee has agreed to make a loan ("Loan") to Mortgagor. This Mortgage is given (i) as security for the performance and observance of the covenants and agreements contained herein and in any other agreement executed by Mortgagor to Mortgagee in connection with the indebtedness secured hereby, and (ii) to secure the payment when due of all present and future indebtedness and obligations of Mortgagor to Mortgagee in accordance with the terms and conditions of such indebtedness and obligations, whether direct or indirect, absolute or contingent and whether evidenced by promissory notes, agreements, checks, drafts, letters of credit, bills,





overdrafts, open accounts or otherwise. The indebtedness and obligations secured by this Mortgage include, without limitation, (i) the principal of, interest on and other sums from time to time owing in connection with any present or future indebtedness and obligations of Mortgagor to Mortgagee, and (ii) the indebtedness evidenced by or arising in connection with the following:

- a. a certain Revolving Promissory Note executed by Mortgagor dated and payable to the order of Mortgagee in the maximum principal sum of One Hundred Fifty-Eight Thousand Seven Hundred Sixty Dollars and No Cents (\$158,760.00), as from time to time modified, amended or extended or any notes in renewal thereof (such promissory note, and/or any promissory note which is a direct or remote renewal, extension, modification, amendment, restatement or replacement of such promissory note, as may be from time to time modified or amended, is hereinafter referred to as the "Note"), with interest thereon at the rate and payable in the manner described in the Note, due and payable on or before March 1, 2019, or as from time to time renewed or extended; and
- b. the obligations of Mortgagor under that certain Revolving Loan Agreement dated November 20, 2017 between Mortgagor and Mortgagee ("Loan Agreement", and together with any other agreements or documents entered into, in connection with the Note, the "Loan Documents"); and
- c. all future advances by the Mortgagee to the Mortgagor pursuant to the terms of this Mortgage and other Loan Documents; and
- d. all cost and expenses, including without limitation all reasonable attorneys' fees and legal expenses, incurred by the Mortgagee to preserve, and maintain the Mortgaged Property, collect the obligations herein described, and enforce this Mortgage; and
- e. all other obligations, indebtedness, and liabilities of the Mortgagor to the Mortgagee, now existing or hereafter arising, regardless of whether such obligations, indebtedness and liabilities are similar, dissimilar, related, unrelated, direct, indirect, fixed, contingent, primary, secondary, joint, several, or joint and several, which relate to the Mortgaged Property; and
- f. any and all extensions, renewals, increases, modifications, amendments, restatements, and replacements of any of the foregoing; and
- g. the payment of any and all other debts, claims, obligations, demands, monies, liabilities and indebtedness of any kind or nature now or hereafter owing, arising, due or payable from Mortgagor, when the document evidencing the same specifically recites the recording information appearing on this Mortgage and that it is intended to be secured hereby.

This Mortgage secures not only existing indebtedness, but also such future advances under this Mortgage and the other Loan Documents, whether such advances are obligatory or are to be made at the option of Mortgagee, or otherwise, as are made by Mortgagee to Mortgagor within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed a maximum principal amount equal to \$158,760.00, plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property and/or the Chattel Property, with interest on such disbursements at the rate applicable under the Note from and after maturity.

The term "Indebtedness" or "Obligations" as used herein shall mean and include the Note and all other indebtedness described, referred to or mentioned in clause (i) and clause (ii)(a) – (g) of this Section 1.

Mortgagor hereby acknowledges that it will receive a benefit from Mortgagee making the Loan to Mortgagor and that this Mortgage is given for value, the adequacy of which is hereby agreed to.

2. Representations and Warranties and Covenants. Mortgagor covenants, warrants and represents that:

- a. Mortgagor has good and indefeasible title to and is possessed of the Mortgaged Property; the Mortgaged Property is free of any and all liens or encumbrances of any kind or nature; and Mortgagor has full power and lawful authority to bargain, grant, sell, mortgage, assign, transfer, and convey all the Mortgaged Property in the manner and form aforesaid.
- b. Mortgagor will warrant and defend the title to the Mortgaged Property against the claims and demands of all other persons whomsoever and will maintain and preserve the lien created hereby so long as any of the Indebtedness secured hereby remains unpaid. Should an adverse claim be made against or a cloud develop upon the title to any part of the Mortgaged Property, Mortgagor agrees it will immediately defend against such adverse claim or take appropriate action to remove such cloud at Mortgagor's cost and expense, and Mortgagor further agrees that Mortgagee may take such action as they deem advisable to protect and preserve their interests in the Mortgaged Property, and in such event Mortgagor will indemnify Mortgagee against any and all cost, attorney's fees and other expenses which they may incur in defending against any such adverse claim or taking action to remove such cloud.
- c. This Mortgage is, and always will be kept, a valid lien upon the Mortgaged Property, Mortgagor will not create or suffer to be created or permit to exist any lien or charge





prior or junior to or on a parity with this Mortgage upon the Mortgaged Property or any part thereof or upon the leases, rents, issues, revenues, profits and other income therefrom, and Mortgagor will from time to time pay or cause to be paid as they become due and payable all taxes, assessments and governmental charges lawfully levied or assessed upon the Mortgaged Property or any part thereof, or upon or arising from any of the rents, issues, revenues, profits and other income from the Mortgaged Property, or the operation and development thereof.

d. Mortgagor will at its own expense do or cause to be done all things necessary to preserve and keep in full repair, working order and efficiency all the Mortgaged Property, including, without limiting the generality of the foregoing, all equipment, machinery, and facilities, and from time to time will make all the needful and proper repairs, renewals, and replacements so that at all times the state and condition of the Mortgaged Property shall be fully preserved and maintained.

e. Mortgagor will keep adequately insured by insurers of recognized responsibility, all of the Mortgaged Property of an insurable nature and of a character usually insured by persons engaged in the same or a similar business, against all risks customarily insured against by such persons. Mortgagor will maintain liability insurance against claims for personal injury or death or property damage suffered by members of the public or others in or about the Mortgaged Property or occurring by reason of Mortgagor's ownership, maintenance, use or operation of any plants, shops, machinery, automobiles, trucks or other vehicles, or other facilities on or in connection with the Mortgaged Property; and maintain all such worker's compensation or similar insurance as may be required under the laws of any jurisdiction in which any of the Mortgaged Property may be situated. All such liability and worker's compensation insurance shall be maintained in such amounts as is usually carried by persons engaged in the same or similar business and shall be effected under a valid and enforceable policy or policies issued by insurers of recognized responsibility. All of the insurance referred to or mentioned in this paragraph, including the character, coverage, amount and insurers, shall be satisfactory to and approved by Mortgagee. If requested by Mortgagee, to the extent reasonably available to Mortgagor, the loss payable clauses or provisions in said policy or policies shall be endorsed in favor of and made payable to Mortgagee, any and all monies that may become payable under any such policies of insurance by reason of damage, loss or destruction of any of the Mortgaged Property, and Mortgagee may apply all or any part of the sums so collected, at its election, toward payment of the Indebtedness, whether or not such Indebtedness is then due and payable, in such manner as Mortgagee may elect.

f. Mortgagor will permit Mortgagee and the agents of either of them to visit and inspect any of the Mortgaged Property, to examine the books of account of Mortgagor and to discuss the affairs, finances, or accounts of Mortgagor, and to be advised as to the same by any officer or employee of Mortgagor, all at such reasonable times or intervals as Mortgagee may desire.

g. Mortgagor will execute and deliver such further instruments and do such further acts as may be necessary or desirable or as may be reasonably requested by Mortgagee to carry out more effectively the purposes of this Mortgage and to subject to the lien created hereby any properties, rights and interests covered or intended to be covered hereby.

h. Mortgagor will duly and punctually pay the principal of and interest on all of the Indebtedness as the same shall become due and payable.

i. If any tax is levied or assessed against the Indebtedness described herein or any part thereof, or against this Mortgage, or against the Mortgagee with respect to said Indebtedness or any part thereof or this Mortgage, Mortgagor shall promptly pay the same.

j. If any part of the Mortgaged Property is destroyed or damaged or if any part of the Mortgaged Property is taken for public use under the power of eminent domain, Mortgagee shall have the right to receive and collect all amounts and damages awarded by insurance proceeds or condemnation proceedings and apply the same on the Indebtedness when received in such manner as it may elect. Notwithstanding the foregoing, if in Mortgagee's reasonable discretion the Mortgaged Property can be restored and repaired to a profitable condition within a reasonable period of time, then Mortgagee shall make the insurance proceeds available to Mortgagor for such restoration and repair work under conditions that are satisfactory to Mortgagee.

k. If Mortgagor fails to perform any of the covenants contained herein, the Mortgagee may make advances and perform same in Mortgagor's behalf and all sums so advanced shall be secured by the lien on the Mortgaged Property created hereby. Mortgagor agrees to repay on demand all sums so advanced.

l. Mortgagor represents and warrants and covenants and agrees that (i) Mortgagor has not used and will not use and, to the best of Mortgagor's knowledge, no prior owner or current or prior tenant, subtenant, or other occupant of all or any part of the Mortgaged Property has used or is using hazardous material (as that term is hereinafter defined) on, from or affecting the Mortgaged Property in any manner that violates any laws pertaining to hazardous materials applicable to Mortgagor or to the Mortgaged Property; (ii) to the best of Mortgagor's knowledge, no hazardous materials have been disposed of on the Mortgaged Property nor have any hazardous materials migrated onto the Mortgaged Property, in either event in violation of any laws pertaining to hazardous materials applicable to Mortgagor or to the Mortgaged Property; and (iii) Mortgagor





will not permit or suffer any such violation of any laws pertaining to hazardous materials applicable to Mortgagor or to the Mortgaged Property. Mortgagor hereby indemnifies and holds harmless Mortgagee and its respective officers, directors, employees, and agents against any and all claims, demands, losses, liabilities, costs, and expenses (including attorneys' fees) incurred as a result of Mortgagor's breach of its representations, warranties and covenants contained in this paragraph l. As used herein, "hazardous material" shall mean and include hazardous substances (as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980), solid wastes, or other substances known or suspected to pose a threat to health or the environment.

m. In the event that any investigation, site monitoring, containment, clean-up, removal, restoration or other remedial work of any kind or nature (hereinafter referred to as the "remedial work") is required under any laws pertaining to hazardous materials applicable to Mortgagor or to the Mortgaged Property, because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a hazardous material in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within the Mortgaged Property (or any portion thereof), Mortgagor shall within the time periods required by the applicable laws pertaining to hazardous materials, commence and thereafter diligently prosecute to completion, all such remedial work. All remedial work shall be performed by contractors reasonably approved in advance by Mortgagee and under the supervision of a consulting engineer reasonably approved by Mortgagee. All costs and expenses of such remedial work shall be paid by Mortgagor including, without limitation, Mortgagee's reasonable attorneys' fees and costs incurred in connection with monitoring or review of such remedial work. In the event Mortgagor shall fails to timely prosecute to completion such remedial work, Mortgagee may, but shall not be required to, cause such remedial work to be performed and all costs and expenses thereof or incurred in connection therewith, shall be immediately due and payable by Mortgagor to Mortgagee and shall become part of the Indebtedness.

n. Mortgagor shall provide Mortgagee with prompt written notice (a) upon Mortgagor's becoming aware of any release or threat of release of any hazardous materials upon, under or from the Mortgaged Property in violation of any laws pertaining to hazardous materials applicable to Mortgagor or to the Mortgaged Property, (b) upon Mortgagor's receipt of any notice from any federal, state, municipal or other governmental agency or authority in connection with any hazardous materials located upon or under or emanating from the Mortgaged Property; and (c) upon Mortgagor's obtaining knowledge of any incurrence of expense, for which Mortgagor or the Mortgaged Property could be liable, by any governmental agency or authority in connection with the assessment, containment or removal of any hazardous materials located upon or under or emanating from the Mortgaged Property.

o. Mortgagor hereby defends, indemnifies and holds harmless Mortgagee, its employees, agents, shareholders, members, officers and directors (collectively, the "**Indemnified Parties**"), from and against any claims, demands, obligations, penalties, fines, suits, liabilities, settlements, damages, losses costs or expenses (including, without limitation, attorney consultant fees and expenses, investigations and laboratory fees and expenses, clean-up costs, and court costs and other litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to (i) the presence, disposal, release, threatened release, removal or production of any hazardous material which are on, in, from or affecting any portion of the Property; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous material; (iii) any lawsuit brought or threatened, settlement reached, or order by any federal, state, local or other governmental authority ("**Governmental Authority**") relating to such hazardous material; and/or (iv) any violation of any applicable laws, or demands of Governmental Authority, or violation of any policies or requirements of Mortgagee, which are based upon or in any way related to such hazardous material, regardless of whether or not any of the conditions described under any of the foregoing subsections (i) through (iv), inclusive, was or is caused by or within the control of Mortgagor. Mortgagor agrees, upon notice and request by an Indemnified Party, to contest and defend any demand, claim, suit, proceeding or action with respect to which Mortgagor has hereinabove indemnified and held the Indemnified Parties harmless and to bear all costs and expenses of such contest and defense. Mortgagor further agrees to reimburse any Indemnified Party upon demand for any costs or expenses incurred by any Indemnified Party in connection with any matters with respect to which Mortgagor has hereinabove indemnified and held the Indemnified Parties harmless. The provisions of this paragraph shall be in addition to any other obligations and liabilities Mortgagor may have to Mortgagee at common law, in equity or under documentation executed in connection with the Note, and shall survive the closing, funding, and payment in full of the Note, as well as any foreclosure of under this Mortgage or granting of any deed in lieu of foreclosure and the recordation of any release of the lien of this Mortgage.

3. Use of Mortgaged Property. Unless required by applicable law, Mortgagor shall not permit changes in the use of any part of the Mortgaged Property from the use existing at the time this Mortgage was executed, except as otherwise contemplated by or permitted by the Note or the Loan



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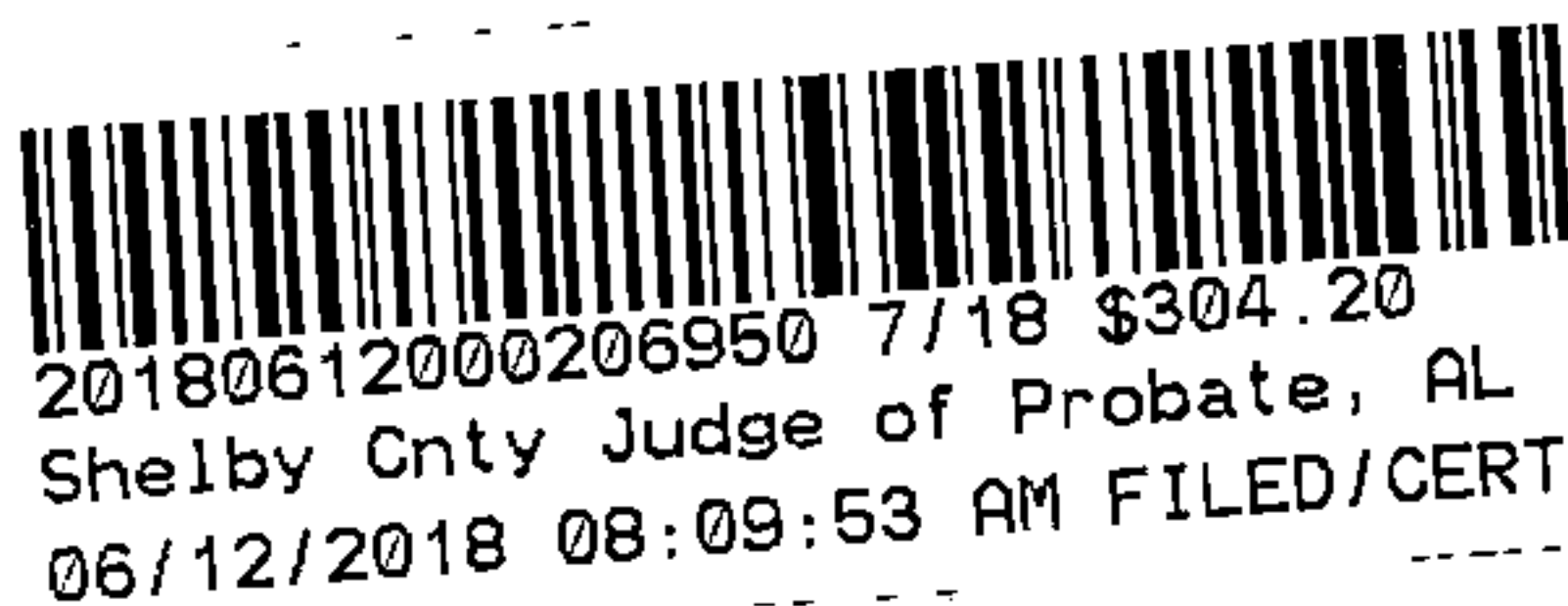
Agreement. Mortgagor shall not initiate or acquiesce in a change in the zoning classification of the Mortgaged Property without Mortgagee's prior written consent.

4. Waste; Compliance with Laws and Ordinances. Mortgagor shall keep the Mortgaged Property and the Chattel Property in good order, repair and restore or repair promptly, in a good and workmanlike manner at all times, subject to normal wear and tear, and will not commit waste or allow waste to be committed against the Mortgaged Property or the Chattel Property. Mortgagor will not abandon the Mortgaged Property. Mortgagor will not commit or allow the commission of any violation of any law, regulation, ordinance, or contract affecting the Mortgaged Property and will not commit or allow any demolition, removal, or material alteration of any of the buildings or improvements (including fixtures) constituting a part of the Mortgaged Property and the Chattel Property, except in the ordinary course of business during renovations, without the prior written consent of Mortgagee. Mortgagee shall at reasonable times during normal business hours have free access to the Mortgaged Property for the purposes of inspection and the exercise of its rights hereunder. Mortgagor covenants and agrees that Mortgagor shall cause at all times the Mortgaged Property to comply with all applicable laws, regulations, building codes, zoning ordinances and requirements of any federal, state or local regulatory agencies having jurisdiction, including but not limited to causing the Mortgaged Property to be in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and the Americans with Disabilities Act of 1990 Architectural Guidelines (as amended from time to time). Mortgagor will indemnify Mortgagee and save it harmless from any and all loss, damage, or expense, including reasonable attorneys' fees, resulting from, or arising out of any failure of the Mortgaged Property to comply with all such laws and regulations and the same is made a part of the indebtedness secured hereby. Mortgagor shall comply with all restrictions and covenants affecting the Mortgaged Property and shall not acquiesce in or seek any rezoning classification affecting the Mortgaged Property without the prior written consent of Mortgagee. Mortgagor shall provide for management of the Mortgaged Property by Mortgagor or by a property manager approved by Mortgagee and pursuant to a property management agreement approved by Mortgagee; and give notice in writing to Mortgagee of and, unless otherwise directed in writing by Mortgagee, appear in and defend any action or proceeding purporting to affect the Mortgaged Property, the security granted by the Loan Documents or the rights or powers of Mortgagee. Neither Mortgagor nor any tenant or other person shall remove, demolish, or substantially alter any improvement on the Real Estate except in the ordinary course of business during renovations; provided, however, that Mortgagor shall be permitted to replace fixtures, equipment, machinery, and appliances with items of like kind.

5. Protection of Security. Mortgagor shall promptly notify Mortgagee of, and appear in and defend, any suit, action or proceeding that affects the Mortgaged Property or the rights or interest of Mortgagee hereunder and Mortgagee may elect to appear in or defend any such action or proceeding. Mortgagor agrees to indemnify and reimburse Mortgagee from any and all loss, damage, expense, or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and attorneys' fees incurred by Mortgagee except for matters arising out of intentional misconduct of Mortgagee. All such sums paid by Mortgagee shall be paid by Mortgagor to Mortgagee, together with interest thereon from date of payment at the rate which is equal to the "Default Rate" of interest as defined under the Note, and any such sums and the interest thereon shall be immediately due and payable and secured hereby, having the benefit of the lien hereby created as a part thereof and with its priority, all without relief from valuation or appraisal laws.

6. Indemnification. Mortgagor will indemnify Mortgagee and save it harmless from any and all loss, damage, or expense, including attorneys' fees, resulting from, or arising out of the execution and delivery of this Mortgage and the terms hereof and the same is made a part of the indebtedness secured hereby except for matters arising out of intentional misconduct of Mortgagee. Such amounts shall include without limitation all costs and expenses incurred by Mortgagee in connection with the collection or enforcement of this Mortgage, including, without implied limitation, reasonable attorneys' fees incurred by Mortgagee in connection with (i) the protection of any rights arising in connection with this Mortgage, (ii) the enforcement of any provision contained in this Mortgage, or (iii) the collection of any indebtedness evidenced hereby or arising in connection herewith (including, without limitation, attorneys' fees incurred by Mortgagee in connection with any bankruptcy, reorganization, receivership or other proceeding affecting creditor's rights and involving a claim under this Mortgage or any document executed in connection herewith). In addition, Mortgagor agrees to pay to Mortgagee all reasonable attorneys' fees incurred by Mortgagee in connection with any advice or other representation with respect to any Event of Default, regardless of whether any formal legal proceedings are initiated by Mortgagee. All sums paid by Mortgagee for which Mortgagor is obligated to reimburse Mortgagee pursuant to the terms of this Mortgage, shall be paid by Mortgagor to Mortgagee, together with interest thereon from date of payment at the rate which is equal to the "Default Rate" of interest as defined under the Note, and any such sums and the interest thereon shall be immediately due and payable and secured hereby, having the benefit of the lien hereby created as a part thereof and with its priority, all without relief from valuation or appraisal laws.

7. Payment of Obligations. Mortgagor will pay all sums which if not paid may result in the acquisition or creation of a lien prior to or of equal priority with or junior to the lien of this Mortgage, or





which may result in conferring upon a tenant of any part of the Mortgaged Property a right to recover such sums as prepaid rent or as a credit or offset against any future rental obligation. Mortgagor shall pay all operating costs and expenses of the Mortgaged Property, shall keep the Mortgaged Property free from levy, attachment, mechanics', materialmen's' and other liens, including, without limitation, liens of any supplier, contractor, subcontractor, designer, engineer, architect, or vendor furnishing material or labor to any portion of the Mortgaged Property and shall pay when due all indebtedness which Mortgagee may permit which may be secured by mortgage, lien or charge on the Mortgaged Property. Notwithstanding anything contained herein to the contrary, Mortgagor shall have the right to contest in good faith by appropriate legal or other proceedings the validity or amount of any lien, levy, or attachment imposed upon all or any portion of the Mortgaged Property, provided that (a) Mortgagor gives Mortgagee prior written notice of its intent to contest the same, (b) if requested by Mortgagee, Mortgagor demonstrates to the reasonable satisfaction of Mortgagee that such legal or other proceedings shall operate to prevent the sale of the Mortgaged Property (or any portion thereof) to satisfy payment of the amount being contested prior to final determination of such proceedings, (c) Mortgagor causes the title insurance company insuring the lien of this Mortgage to provide to Mortgagee such affirmative coverages and endorsements as Mortgagee may require to insure the priority of the lien of this Mortgage over the lien of any such lien, levy, or attachment, and (d) if requested by Mortgagee, Mortgagor provides a sufficient undertaking as may be required or permitted by law to accomplish the discharge or release of any such lien, levy, or attachment as to the Mortgaged Property. Furthermore, Mortgagor consents to the intervention by Mortgagee in any such judicial proceeding if Mortgagee determines such intervention is necessary or desirable to protect the interest of Mortgagee. In such event, Mortgagor agrees to reimburse Mortgagee upon demand for all reasonable attorneys' fees, costs and expenses incurred by Mortgagee in connection with its intervention in such judicial proceeding. Any such contest shall be prosecuted with due diligence and Mortgagor shall promptly after final determination thereof pay the amount of any such lien, levy, or attachment so determined, together with all interest and penalties which may be payable in connection therewith. Notwithstanding these provisions, Mortgagor shall (and if Mortgagor shall fail so to do, Mortgagee may but shall not be required to) pay any such lien, levy, or attachment notwithstanding such contest if in the reasonable opinion of Mortgagee, the Mortgaged Property shall be in jeopardy or in danger of being forfeited or foreclosed.

8. Estoppel Certificate. Mortgagor shall, within twenty (20) days after Mortgagee's request, furnish Mortgagee with a written statement, duly acknowledged by Mortgagor or a property manager, setting forth the sums, according to Mortgagor's books and records, secured by the Loan Documents and any right of set-off, counterclaim or other defense which exists against such sums and the Obligations.

9. Mortgagor and Lien Not Released. Without affecting the liability of Mortgagor or any other person liable for the payment of the Indebtedness, and without affecting the lien or charge of this Mortgage as security for the payment of the Indebtedness, Mortgagee may from time to time and without notice to any junior lien holder or holder of any right or other interest in and to the Mortgaged Property: (a) release any person so liable; (b) waive or modify any provision of this Mortgage or the other Loan Documents or grant other indulgences; (c) release all or any part of the Mortgaged Property; (d) take additional security for any obligation herein mentioned; (e) subordinate the lien or charge of this Mortgage; (f) consent to the granting of any easement; or (g) consent to any map or plan of the Mortgaged Property.

10. Transfer of Mortgaged Property by Mortgagor. Mortgagor shall not allow any Transfer (as defined below) to occur, except as allowed by the Loan Agreement. Mortgagor agrees that, in the event of any Transfer without the prior written consent of Mortgagee (except as allowed by the Loan Agreement), Mortgagee shall have the absolute right, without prior demand or notice, to declare all of the Obligations immediately due and payable. Consent to one Transfer shall not be deemed to be a waiver of the right to require consent to future or successive Transfers. "Transfer" means:

(a) any sale, transfer, conveyance, hypothecation, encumbrance, lease or vesting of the Mortgaged Property or any part thereof or interest therein to or in any person, whether voluntary, involuntary, by operation of law, or otherwise, except the Permitted Exceptions (as defined in the Loan Agreement);

(b) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any general partnership interest in Mortgagor, or in any partner, member, or shareholder in Mortgagor, to or in any person (if Mortgagor or any partner, member or shareholder in Mortgagor is a partnership) whether voluntary, involuntary, by operation of law, or otherwise;

(c) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any membership interest in Mortgagor, or in any partner, member, or shareholder in Mortgagor, to or in any person (if Mortgagor or any partner, member or shareholder in Mortgagor is a limited liability company) whether voluntary, involuntary, by operation of law, or otherwise;

(d) (i) any sale, transfer, assignment, conveyance, hypothecation, encumbrance or vesting of any shares of stock in Mortgagor, or in any partner, member or shareholder in Mortgagor, to or in any person or (ii) any consolidation or merger of Mortgagor, or of any partner, member or shareholder in Mortgagor, into or with any person (in each of (i) or (ii) above, if Mortgagor or any partner, member or



shareholder in Mortgagor is a corporation) whether voluntary, involuntary, by operation of law, or otherwise; or

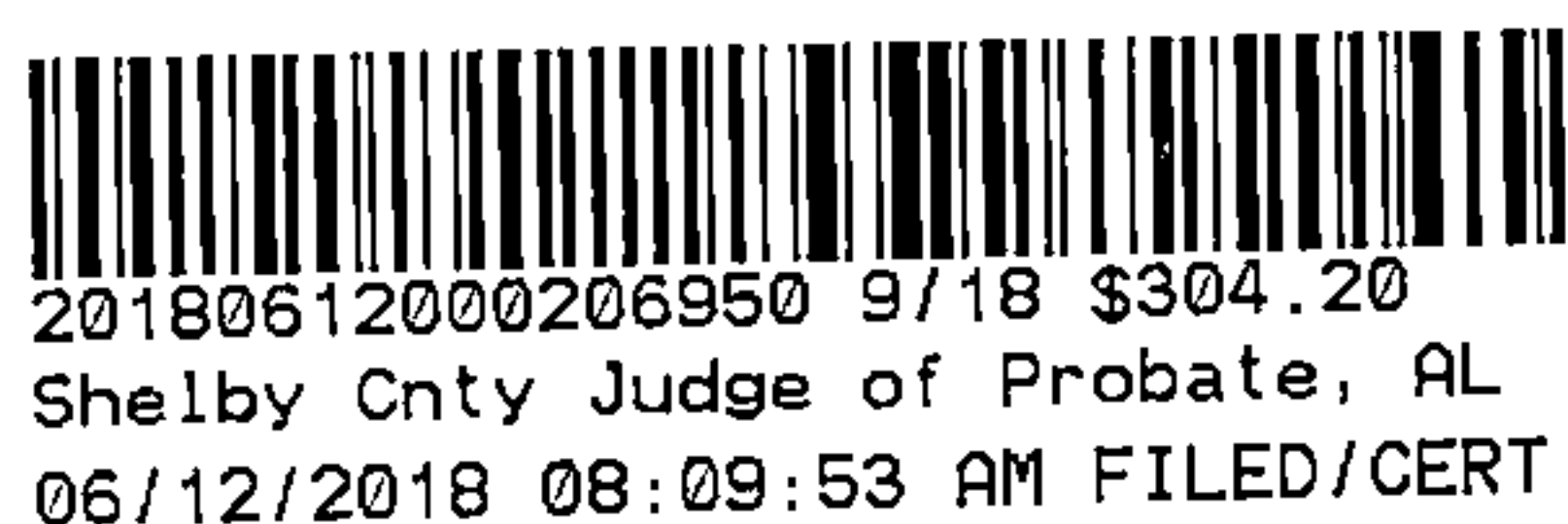
(e) the execution of any agreements to do any of the foregoing.

11. Security Interest. Mortgagor hereby authorizes Mortgagee to file with any public office or official (i) such financing statements covering the security interest of Mortgagee in the Mortgaged Property and the Chattel Property and (ii) such amendment financing statements and correction statements relating to any financing statement covering the security interest of Mortgagee in the Mortgaged Property and the Chattel Property, as Mortgagee may deem necessary or advisable, at its reasonable discretion, to perfect its security interest. Such financing statements, amendment financing statements and correction statements may be unsigned or, if required to be signed by the applicable office with which Mortgagee intends to file such financing statement, signed only by a representative of Mortgagee. To the full extent Mortgagor may do so, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim, or take the benefit or advantage of any law now or hereafter in force providing for any damages, penalty, or fee against Mortgagee for failure to furnish Mortgagor with any financing statement filed by Mortgagee which relates to the Mortgaged Property and the Chattel Property. Mortgagor, to the extent permitted by law, hereby waives, and releases all rights to collect or receive any damages, penalty, or fee from Mortgagee for failure to furnish Mortgagor with any financing statement filed by Mortgagee which relates to the Mortgaged Property and the Chattel Property. Upon an Event of Default hereunder, Mortgagee, at its option and without notice or demand, shall be entitled to enter upon the Mortgaged Property to take immediate possession of the Chattel Property or to render the same unusable. Upon request, Mortgagor shall assemble and make the Chattel Property available to Mortgagee at a place to be designated by Mortgagee which is reasonably convenient to both parties. Upon repossession, Mortgagee may propose to retain the Chattel Property in partial satisfaction of the indebtedness of Mortgagor secured hereby or sell all or any portion of the Chattel Property at public or private sale in accordance with the Uniform Commercial Code as adopted in Alabama or any other applicable statute. In the further event that Mortgagee shall dispose of any or all of the Chattel Property after an Event of Default, the proceeds of disposition shall be first applied in the following order: (a) to the reasonable expenses of retaking, holding, preparing for sale, selling and the like, (b) to the reasonable attorneys' fees and legal expenses incurred by Mortgagee, and (c) to the satisfaction of the indebtedness secured hereby. Mortgagor agrees to release and hold harmless Mortgagee from any and all claims arising out of the repossession of the Chattel Property. In the event of a proposed sale of all or any part of the Chattel Property, notification shall be given to Mortgagor at least ten (10) days prior thereto. From time to time upon the request of Mortgagee, Mortgagor shall furnish to Mortgagee a current detailed written list of all of the Chattel Property. Mortgagor shall give prior written notice to Mortgagee of any transfer, sale, pledge, encumbrance, assignment or any other process or action taken or pending, voluntary or involuntary, whereby a third party is to obtain or is attempting to obtain possession of or any interest in any of the Chattel Property, except in connection with the sale of inventory in the ordinary course of business or disposal of any obsolete equipment for fair market value. To the extent that the Uniform Commercial Code does not apply to any item of the Chattel Property, it is the intention of this Mortgage that Mortgagee has a common law pledge and/or collateral assignment of such item of Chattel Property.

12. Fixture Filing. This Mortgage is to be recorded in the real estate records in the Recorder's office of the county in which the Mortgaged Property is located. THIS MORTGAGE SHALL CONSTITUTE A FIXTURE FILING AND FINANCING STATEMENT TO THE EXTENT PERMITTED UNDER THE UNIFORM COMMERCIAL CODE AS ADOPTED IN ALABAMA AS TO ALL FIXTURES OWNED BY MORTGAGOR ACTUALLY OR CONSTRUCTIVELY ATTACHED TO THE MORTGAGED PROPERTY. In connection therewith, (i) Mortgagor shall be deemed the "debtor"; (ii) Mortgagee shall be deemed the "secured party"; (iii) this Mortgage covers goods which are or are to become fixtures; (iv) the name of the record owner of the Real Estate is the Mortgagor; (v) the names and addresses of the secured party (Mortgagee) and the debtor (Mortgagor) are set forth in the opening paragraph of this Mortgage; and (vi) the state of organization and the state organizational identification number of Mortgagor, if any, are as set forth in the next paragraph of this Mortgage.

13. State of Organization. Mortgagor covenants and warrants to Mortgagee that: (i) Mortgagor is a limited liability company duly organized in the State of Delaware, (ii) Mortgagor shall continue to maintain its existence in good standing under the laws of the state of its incorporation or organization, as the case may be, at all times, (iii) Mortgagor's correct legal name is SPA 2, LLC, a Delaware limited liability company, and such legal name is correctly reflected in the records of the state of Delaware, (iv) Mortgagor shall not change its legal name without providing Mortgagee with not less than sixty (60) days prior written notice, (v) Mortgagor shall not voluntarily or involuntarily dissolve, cancel or terminate its legal existence or change the state of its incorporation or organization, as the case may be, and (vi) Mortgagor's Organizational identification number is 82-2486759. Mortgagor shall maintain all of Mortgagor's records regarding the Personalty and Personal Property at its principal office identified in the opening paragraph of this Mortgage.

14. Continuing Lien. This Mortgage creates a continuing lien to secure the full and final payment of the Note and the performance of the other obligations of Mortgagor under this Mortgage or





under any other security documents or agreements executed by Mortgagor in connection with the indebtedness secured hereby.

15. Events of Default. The occurrence of an “Event of Default” under and as defined in the Note, the Loan Agreement or any other Loan Document shall constitute an “Event of Default” under this Mortgage, including but not limited to, a Transfer in violation of Section 10 herein.

Upon the occurrence and during the continuation of an Event of Default, at the option of Mortgagee, the Indebtedness shall become immediately due and payable without further notice to Mortgagor and Mortgagee shall be entitled to all of the rights and remedies provided in the Loan Documents or at law or in equity. Each remedy provided in the Loan Documents, is distinct and cumulative to all other rights or remedies under the Loan Documents, or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

Notwithstanding anything expressed or implied in this Section to the contrary, if Mortgagee is prevented or prohibited by any applicable provision of the United States Bankruptcy Code (“**Bankruptcy Code**”) or other applicable law from giving Mortgagor a notice of default hereunder, then no notice of a default shall be given to Mortgagor and any requirement that notice of a default must be given in order for an Event of Default to have occurred hereunder shall be deemed eliminated. With respect to any default for which this Section provides that notice shall be given, any applicable cure period following such notice shall run from the occurrence of the event or condition of default rather than from the date of notice.

16. Specific Remedies. Upon the occurrence of an Event of Default that is not cured within ten (10) days after written notice by Lender to Borrower of the occurrence of such Event of Default and the actions necessary to cure the Event of Default, in addition to all other rights and remedies available to Mortgagee at law or in equity, Mortgagee shall be entitled to exercise any and all of the following rights and remedies:

a. Mortgagee may declare any or all of the indebtedness secured hereby to be immediately due and payable without further notice or demand;

b. Mortgagee, at its option, may proceed to foreclose this Mortgage, in one or several concurrent or consecutive proceedings, without relief from valuation and appraisal laws;

c. At any time during the existence of any such Event of Default, Mortgagee shall be entitled to enter into possession of the Mortgaged Property and to collect the rents, issues, and profits thereof, accrued and to accrue, and to apply the same on any indebtedness secured hereby (with application against the various obligations constituting the indebtedness secured hereby in such manner and amounts as Mortgagee, in its sole discretion, may determine);

d. To the extent permitted by applicable law, Mortgagee shall be entitled to the appointment of a receiver in any court of competent jurisdiction for all or any part of the Mortgaged Property and the Chattel Property, and the proceeds, issues, and profits thereof, with the rights and powers referenced herein and such other rights and powers as the court making such appointment shall confer, such powers shall include without limitation the power to collect such rents, issues, and profits. Mortgagor hereby waives (i) notice of the exercise by Mortgagee of its right to obtain the appointment of such receiver and (ii) the posting of any bond by Mortgagee in connection with the appointment of such receiver. Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by applicable law, all other powers which are necessary or usual in such cases for the protection, possession, control, management and operation of the Mortgaged Property and the Chattel Property;

e. Mortgagee may order an appraisal and an environmental site assessment of the Mortgaged Property and Chattel Property, to be in such form and scope and to be performed by an appraiser and engineer, as applicable, as Mortgagee may choose in its sole discretion. All costs and expenses of such appraisal and environmental site assessment shall be immediately paid by Mortgagor upon demand by Mortgagee and such amounts shall be added to the indebtedness secured hereby; and

f. In addition to the rights available to a mortgagee of real property, Mortgagee shall also have all the rights, remedies and recourse available to a secured party under the Uniform Commercial Code as adopted in the State in which the Mortgaged Property is located, including the right to proceed under the provisions of the Uniform Commercial Code governing default as to any property which is subject to the security interest created by the Mortgage or to proceed as to such personal property in accordance with the procedures and remedies available pursuant to a foreclosure of real estate.



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All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

17. Security Agreement.

a) This Mortgage shall constitute a "security agreement" pursuant to the Uniform Commercial Code – Secured Transactions ("UCC") for any portion of the Mortgaged Property now owned or hereafter acquired by Mortgagor, including, without limitation, any trustee receipts, which, under applicable law, may be subject to a security interest pursuant to the UCC (such portion of the Mortgaged Property is hereinafter called the "**Personal Property**"), and Mortgagor hereby grants to Mortgagee a security interest in the Personal Property. Any reproduction of this Mortgage or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Mortgagee shall have all of the rights and remedies of a secured party under the UCC as well as other rights and remedies available at law or in equity.

b) Mortgagor agrees to deliver to Mortgagee any financing statements and further assurances, as well as extensions, renewals, and amendments thereof, and reproductions of this Mortgage in such form as Mortgagee may reasonably require perfecting a security interest with respect to the Personal Property. Mortgagor hereby authorizes and empowers Mortgagee to execute and file all financing statements and refilings and continuations thereof as Mortgagee deems necessary or advisable to create, preserve and protect such lien. Mortgagor shall pay all costs of filing such financing statements and any extensions, renewals, amendments, and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements as Mortgagee may reasonably require. Without limitation of the foregoing, if an Event of Default that is not cured within ten (10) days after written notice by Lender to Borrower of the occurrence of such Event of Default and the actions necessary to cure the Event of Default, occurs and is continuing, Mortgagee shall be entitled immediately to exercise all remedies available to it under the UCC. Mortgagor's (Debtor's) principal place of business is at the address set forth in the first paragraph of this Mortgage. Mortgagee's (Secured Party's) principal place of business is at the address set forth in first paragraph of this Mortgage.

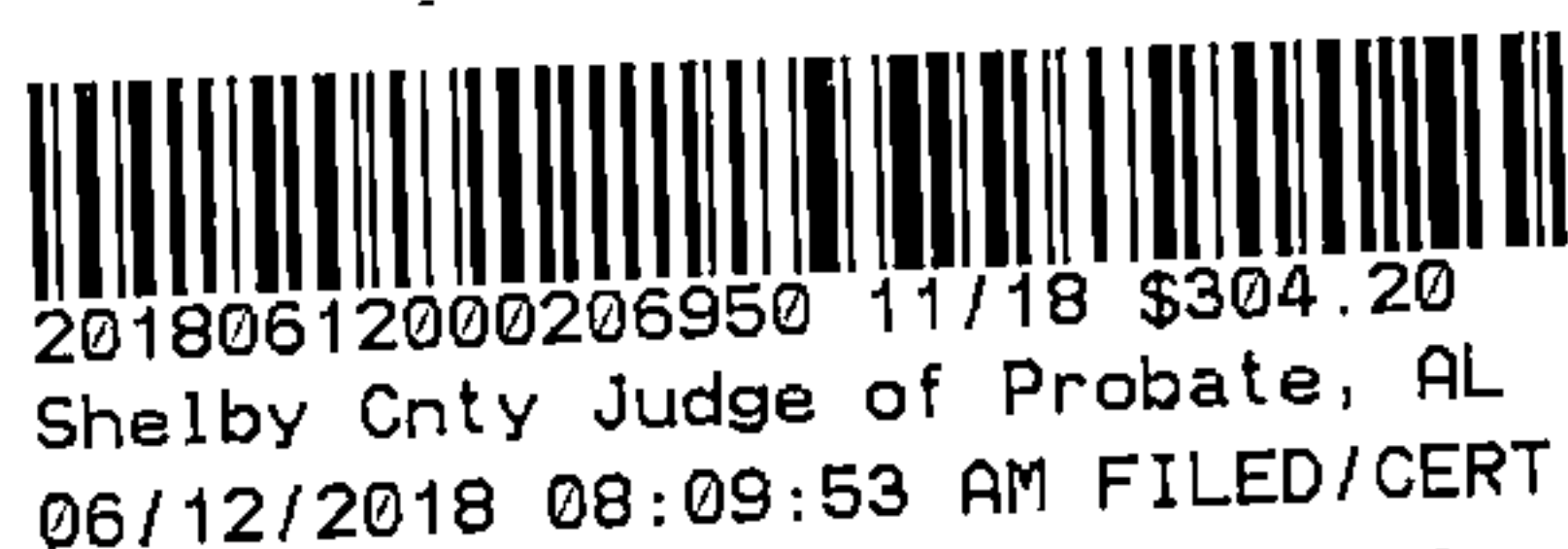
c) Any party to any contract subject to the security interest granted herein shall be entitled to rely on the rights of Mortgagee without the necessity of any further notice or action by Mortgagor. Mortgagee shall not by reason of this Mortgage or the exercise of any right granted hereby be obligated to perform any obligation of Mortgagor with respect to any portion of the Personal Property nor shall Mortgagee be responsible for any act committed by Mortgagor, or any breach or failure to perform by Mortgagor with respect to any portion of the Personal Property.

d) Mortgagor shall not, without the prior written consent of Mortgagee, sell, assign, transfer, encumber, remove, or permit to be removed from the Mortgaged Property any of the Personal Property, other than the sale, assignment, transfer or consumption of inventory in the ordinary course of business or in connection with the renovation and rehabilitation of the Improvements as contemplated or permitted by the Note. So long as no Event of Default exists, Mortgagor may sell or otherwise dispose of the Personal Property when obsolete, worn out, inadequate or unserviceable, but only upon replacing the same with other Personal Property at least equal in value and utility to the disposed Personal Property; provided, further, so long as no Event of Default exists, Mortgagor may sell or otherwise dispose of Personal Property that is unnecessary for use in the operation of the Mortgaged Property, and in such event, Mortgagor shall not be obligated to substitute or replace Personal Property unnecessary for use in the operation of the Mortgaged Property, as determined by Mortgagor in their reasonable business judgment. Any replacement or substituted Personal Property shall be subject to the security interest granted herein.

e) To the extent permitted by law, Mortgagor and Mortgagee agree that with respect to all items of Personal Property which are or will become fixtures on the Real Estate, this Mortgage, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of Sections 9.1-102(a) (40) and 9.1-502 of the UCC. Mortgagor is the record owner of the Real Estate.

f) The information contained in this Section is provided in order that this Mortgage shall comply with the requirements of the Uniform Commercial Code as presently in effect in the State of Alabama for mortgages to be effective as financing statements filed as a fixture filing.

g) Upon the occurrence of an Event of Default under this Mortgage, the Loan Agreement or any other Loan Document, which Event of Default is not cured within ten (10) days after written notice by Lender to Borrower of the occurrence of such Event of Default and the actions necessary to cure the Event of Default, Mortgagee, pursuant to the appropriate provisions of the UCC, shall have an option to proceed with respect to the Personal Property in accordance with its rights, powers and remedies with respect to such real property, in which event the default provisions of the UCC shall not apply. The parties agree that if Mortgagee shall elect to proceed with respect to any portion of the Personal Property, five (5) days' notice of the sale of the Personal Property shall be reasonable notice. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Mortgagee shall include, but not be limited to, attorneys' fees, costs and expenses, and other expenses incurred by Mortgagee.





18. Assignment of Rents. As further security for the payment of the Indebtedness, Mortgagor hereby transfers, assigns, and conveys unto Mortgagee leases and similar arrangements, and all rents, incomes and profits issuing or to hereafter issue from said real property ("Rents"); provided, however, so long as there shall not have occurred an Event of Default, Mortgagor shall have the right to collect all Rents, and shall hold the same, in trust, to be applied first to the payment of all impositions, levies, taxes, assessments and other charges upon the Mortgaged Property, second to maintenance of insurance policies upon the Mortgaged Property required hereby, third to the expenses of Mortgaged Property operations, including maintenance and repairs required hereby, fourth to the payment of that portion of the Indebtedness then due and payable, and fifth, the balance, if any, to or as directed by Mortgagor. If an Event of Default has occurred, Mortgagor's right to collect and secure the Rents shall automatically cease and Mortgagee shall have the sole right, with or without taking possession of the Mortgaged Property to collect all Rents.

Mortgagor acknowledges and agrees that, other than as approved in writing by Mortgagee, all Leases shall be subordinate to this Mortgage, as this Mortgage may be amended from time to time, unless Mortgagee shall specify otherwise at any time during the term of this Mortgage. Each Lease executed subsequent to the recording of this Mortgage shall contain a provision permitting Mortgagee to notify the tenant at any time that the Lease will be prior to the Mortgage. Mortgagee shall be a third party beneficiary of all attornment provisions contained in all Leases executed subsequent to this Mortgage. All tenants who execute leases or lease amendments subsequent to the date of recording of this Mortgage shall be bound by the terms of this provision.

The foregoing assignment transfers to Mortgagee all of Mortgagor's right, title, and interest in any security deposits, provided that Mortgagor shall have the right to retain the security deposit so long as there is no Event of Default under this Mortgage or the Loan Documents. Mortgagee shall have no obligation to any tenant with respect to its security deposit unless and until Mortgagee comes into possession and control of the deposit.

Mortgagor acknowledges that Mortgagee has taken all actions necessary to obtain, and that upon recordation of this Mortgage, Mortgagee shall have, to the extent permitted under applicable law, a valid and fully perfected, first priority, present assignment of the Rents arising out of the Leases and all security for such Leases. Mortgagor acknowledges and agrees that upon recordation of this Mortgage, Mortgagee's interest in the Rents shall be deemed to be fully perfected, and enforced as to Mortgagor and all third parties, including, without limitation, any subsequently appointed trustee in any case under the Bankruptcy Code, without the necessity of commencing a foreclosure action with respect to this Mortgage, making formal demand for the Rents, obtaining the appointment of a receiver or taking any other affirmative action.

Mortgagor and Mortgagee agree that (a) this Mortgage shall constitute a "security agreement" for the purposes of Section 552(b) of the Bankruptcy Code, (b) the security interest created by this Mortgage extends to property of Mortgagor acquired before the commencement of a case in bankruptcy and to all amounts paid as Rents and (c) such security interest shall extend to all Rents acquired by the estate after the commencement of any case in bankruptcy.

19. Terms. The term "**Mortgagor**" as used herein shall mean and include all and each of the individuals, partnerships, corporations or other legal entities or persons executing this Mortgage. The number and gender of pronouns used in referring to Mortgagor shall be construed to mean and correspond with the number and gender of the individuals, partnerships, corporations or other legal entities or persons executing this Mortgage as Mortgagor. The term "**Mortgagee**" as used herein shall mean and include any legal owner, holder, assignee, or pledgee of any of the Indebtedness secured hereby. The terms used to designate Mortgagee and Mortgagor shall be deemed to include the respective heirs, legal representatives, successors and assigns of such parties. References to the plural of any term which is defined in the singular will be deemed to be references to the defined term. References to the singular of any term which is defined in the plural will be deemed to be references to the defined term.

20. Fees and Costs. Mortgagor shall pay to Mortgagee, or its legal representatives, successors and assigns, the costs and expenses, including but not limited to reasonable attorneys' fees and legal expenses, incurred by Mortgagee in the exercise of any right or remedy available to it under this Mortgage, whether or not suit is commenced, including without limitation, reasonable attorneys' fees and legal expenses incurred in connection with any bankruptcy, reorganization, receivership or other proceeding affecting creditor's rights and involving a claim under this Mortgage or any document executed in connection herewith, which fees and costs shall be an additional lien and security interest against the Mortgaged Property and the Chattel Property and shall be secured hereby. In addition, Mortgagor shall pay to Mortgagee, or its legal representatives, successors and assigns, reasonable attorneys' fees, any sums expended for obtaining title reports for the Mortgaged Property, for title searches, or for title insurance, and all other costs incurred in any action to foreclose this Mortgage, or for the cure of an Event of Default,



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which fees and costs shall be an additional lien and security interest against the Mortgaged Property and the Chattel Property and shall be secured hereby.

21. Rights Cumulative. In addition to the rights, powers and remedies herein expressly conferred upon Mortgagee, Mortgagee shall be entitled to exercise all rights, powers, and remedies available to Mortgagee by law or at equity. Each right, power or remedy herein expressly conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to Mortgagee, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

22. RESERVED

23. Exercise of Rights. No failure by Mortgagee in the exercise of any of its rights under this Mortgage shall preclude Mortgagee from the exercise thereof in the event of any subsequent Event of Default, and no delay by Mortgagee in the exercise of its rights under this Mortgage shall preclude Mortgagee from the exercise thereof so long as an Event of Default exist. Mortgagee may enforce any one or more of its rights or remedies hereunder successively or concurrently.

24. Additional Assurances. Mortgagor agrees upon the request by Mortgagee to execute and deliver such further instruments, deeds and assurances including financing statements under the Uniform Commercial Code and will do such further acts as may be necessary or proper to carry out more effectively the purposes of this Mortgage and without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the granting clause hereof, or intended so to be. Mortgagor agrees to pay any recording fees, filing fees, note taxes, mortgage registry taxes or other charges arising out of or incident to the filing or recording of this Mortgage and such further assurances and instruments.

25. Extension of Time and Other Acts of Mortgagee. Mortgagee, at its option, may (i) extend the time for the payment of the indebtedness secured hereby, (ii) reduce the payments thereon, (iii) accept a renewal note or notes therefore, (iv) grant any release, with or without consideration, of the whole or any part of the security for the payment of the indebtedness secured hereby or the release of any person, party or entity liable for payment of said indebtedness, or (v) amend or modify in any respect any of the terms and provisions hereof, of this Mortgage, the Note (including substitution of another note) or of any other Loan Documents (as defined herein), without the consent of any endorser or guarantor and without the consent of Mortgagor if Mortgagor has conveyed title to the Mortgaged Property, and any such extension, reduction or renewal shall not affect the priority of this Mortgage or impair the security hereof in any manner whatsoever, or release, discharge or affect in any manner the primary liability of Mortgagor or any endorser or guarantor to Mortgagee.

26. Partial Release and Additional Security. Any part of the Mortgaged Property and the Chattel Property covered by this Mortgage may be released by Mortgagee without affecting the lien and security interest hereby granted as to the remainder, and the security of this Mortgage shall not affect or be affected by any other security for the indebtedness secured hereby nor shall the taking of additional security release or impair the security hereof or liability for the indebtedness secured hereby in any manner whatsoever.

27. Waiver of Certain Rights by Mortgagor. Mortgagor for itself and its heirs, devisees, representatives, successors, and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property through Mortgagor, hereby waives, releases and relinquishes, to the full extent permitted by law, each of the following:

- a. any right or claim of right to cause a marshalling of Mortgagor's assets or to cause Mortgagee to proceed against any of the security for the indebtedness secured hereby before proceeding under this Mortgage against Mortgagor and Mortgagor hereby agrees that any court having jurisdiction to foreclose the lien of this Mortgage may order the Mortgaged Property sold as an entirety;
- b. the benefit of all laws now or hereafter existing providing for any appraisalment before sale of any portion of the Mortgaged Property;
- c. the benefit of all laws now or hereafter existing providing for the extension of time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt;
- d. all rights of redemption, valuation, appraisalment, stay of execution and notice of election to mature or declare due the whole of the indebtedness secured hereby in the event of foreclosure of this Mortgage; and
- e. All rights of dower, curtesy, and homestead in and to the Mortgaged Property.



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To the full extent Mortgagor may do so, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim, or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension or redemption. Mortgagor agrees that any payments required to be made hereunder shall become due on demand and Mortgagor expressly waives and relinquishes all rights and remedies (including any rights of subrogation) accorded by applicable law to indemnitors or guarantors.

28. Waiver of Marshalling Assets. Mortgagor hereby waives, releases and relinquishes any right or claim of right to cause a marshalling of Mortgagor's assets or to cause Mortgagee to proceed against any of the security for the indebtedness secured hereby before proceeding under this Mortgage against Mortgagor and Mortgagor hereby agrees that any court having jurisdiction to foreclose the lien of this Mortgage may order the Mortgaged Property sold as an entirety. Mortgagor hereby waives and releases the benefit of all laws now or hereafter existing providing for (i) any appraisal before sale of any portion of the Mortgaged Property and (ii) the extension of time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt. Mortgagor and Mortgagor's heirs, devisees, representatives, successors, and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, to the extent permitted by law, hereby waives, and releases all rights of redemption, valuation, appraisal, stay of execution and notice of election to mature or declare due the whole of the secured indebtedness in the event of foreclosure of this Mortgage.

29. Waiver of Right to Trial by Jury. Mortgagor hereby agrees that any suit, action or proceeding, whether a claim or counterclaim, brought or instituted by any party on or with respect to this Mortgage or any other document executed in connection herewith or which in any way relates, directly or indirectly to the Loan Agreement or any event, transaction or occurrence arising out of or in any way connected with this Mortgage or the dealings of the parties with respect thereto, shall be tried only by a court and not by a jury. **MORTGAGOR, AND MORTGAGEE BY ACCEPTANCE HEREOF, HEREBY EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION, OR PROCEEDING.** Mortgagor acknowledges that Mortgagor may have a right to a trial by jury in any such suit, action or proceeding and that Mortgagor hereby is knowingly, intentionally, and voluntarily waiving any such right. Mortgagor further acknowledges and agrees that this paragraph is material to this Mortgage and that adequate consideration has been given by Mortgagee and received by Mortgagor in exchange for the waiver made by Mortgagor pursuant to this paragraph.

30. Waivers by any Guarantor. Mortgagor acknowledges and agrees that if any guaranty is executed by Mortgagor in connection with or related to this Mortgage, then all waivers by Mortgagor contained in any such guaranty shall be and hereby are incorporated by reference into this Mortgage.

31. Successors and Assigns. The covenants, conditions and agreements contained in this Mortgage shall bind, and the benefits thereof shall inure to, Mortgagor and Mortgagee, their respective successors, assigns, heirs and legal representatives. In the event the ownership of the Mortgaged Property, or any part thereof, becomes vested in a person or persons other than Mortgagor, and Mortgagee does not exercise the option reserved to it hereunder to accelerate the indebtedness secured hereby in the event of alienation of all or any part of the Mortgaged Property, Mortgagee may deal with successor or successors in interest with reference to this Mortgage and the indebtedness secured hereby in the same manner as with Mortgagor, without in any manner vitiating or discharging Mortgagor's liability hereunder, or upon the indebtedness hereby secured.

32. No Agricultural Use. Mortgagor covenants that the Mortgaged Property and Chattel Property shall not be used for either agricultural or farming purposes.

33. Merger. In the event Mortgagee acquires any other estate, or any other lien, in the Mortgaged Property, no merger shall occur as a result thereof unless Mortgagee consents to a merger in writing.

34. Release of Mortgage. When all of the indebtedness secured hereby has been paid and all obligations of Mortgagee to advance any further credit to Mortgagor have been terminated, Mortgagee shall release this Mortgage of record. Mortgagor agrees to reimburse Mortgagee for all reasonable costs and expense incurred by Mortgagee in connection with the preparation and recording of such release and, if required by Mortgagee, shall pay such anticipated release expenses in advance.

35. Notices. Any written notice required or permitted hereunder shall be deemed effective when (a) sent by an overnight carrier which provides for return receipt or (b) mailed by certified United States mail, postage prepaid with return receipt requested, to the applicable address specified in the recitals hereof or at such other address as Mortgagor or Mortgagee may from time to time specify by notice hereunder. Any notice may be given on behalf of Mortgagee or Mortgagor by such party's legal counsel. Any notice required to be given by Mortgagee of a sale, lease or other disposition of the collateral or any other intended action by Mortgagee, deposited in the United States mail, postage prepaid, duly addressed



as specified above no less than ten (10) days prior to such proposed action or if sent by overnight carrier no less than five (5) days prior to such proposed action, shall constitute commercially reasonable and fair notice to Mortgagor of same. Notwithstanding the foregoing, notices shall be given under this Mortgage in conformity with the terms and conditions of the Note and in conformity with applicable law.

36. Invalidity of Any Provision. It is the intent of this Mortgage to confer to Mortgagee the rights and benefits hereunder to the full extent allowable by law. If any provision (or a portion thereof) of this Mortgage or of any other document executed in connection herewith is held invalid or unenforceable or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable (each such provision, or applicable portion thereof, is herein referred to as an "Invalid Provision"), then (i) the remainder of this Mortgage, or the application of such Invalid Provision to any other person or circumstance, shall be valid and enforceable to the fullest extent permitted by law, (ii) the Invalid Provision shall be deemed to be severable in such instance, and (iii) Mortgagor and Mortgagee shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Mortgage.

37. Submission to Jurisdiction. Mortgagor irrevocably agrees that any suit, action, or other legal proceeding arising directly, indirectly, or otherwise in connection with, out of, related to or from the Note, this Mortgage or any of the other Loan Documents may be brought in a court located within the State in which the Mortgaged Property is located, where the real estate encumbered by this Mortgage is located. Mortgagor irrevocably (i) consents and submits to the jurisdiction of any local, state or federal court located within the State in which the Mortgaged Property is located, (ii) waives any objection which Mortgagor may have to the laying of venue in any suit, action or proceeding in any such courts, and (iii) waives any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Notwithstanding anything contained in this paragraph to the contrary, Mortgagee shall have the right to commence and litigate any suit, action or proceeding against Mortgagor or any property of Mortgagor in any court of any other appropriate jurisdiction. Nothing herein shall be deemed to limit any rights, powers, or privileges which Mortgagee may have pursuant to any law of the United States of America or any rule, regulation or order of any department or agency thereof and nothing herein shall be deemed to make unlawful any transaction or conduct by Mortgagee which is lawful pursuant to, or which is permitted by, any of the foregoing.

38. Governing Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of Alabama, notwithstanding that Alabama conflicts of law rules might otherwise require the substantive rules of law of another jurisdiction to apply.

39. Captions. The captions or headings herein have been inserted solely for the convenience of reference and in no way, define or limit the scope, intent or substance of any provision of this Mortgage. Whenever the context requires or permits the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

40. Release. Upon payment of all sums secured by this Mortgage, Mortgagee shall release this Mortgage. Mortgagor shall pay Mortgagee's reasonable costs incurred in releasing this Mortgage and any financing statements related hereto.

41. Non-Owner Occupied. Mortgagor hereby represents and warrants that the Mortgaged Property is not his/her current principal residence, and hereby covenants that during the term of the Loan, Mortgagor shall never make the Mortgaged Property his/her principal residence. Mortgagor acknowledges that Mortgagee would not have entered into the transaction contemplated by the Note if Mortgagor occupied the Property or intended to occupy the Property as their principal residence. In the event Mortgagor occupies the Mortgaged Property as their principal residence at any time during the term of the Loan, such action shall cause an immediate Event of Default and the Indebtedness shall be immediately due and payable.

  
Mortgagor Initials


42. Interest Adjustments; Additional Interest. The lien of this Mortgage, as to principal and adjusted interest and accrued and deferred interest, all pursuant to the Note and the Loan Documents shall at all times be on a parity with the lien of this Mortgage as to principal and interest at the date of execution of the Note, the Loan Documents, and this Mortgage.

43. Incorporation by Reference. All of the terms, covenants and conditions contained in the Note and the Loan Agreement are hereby made a part of this Mortgage to the same extent and with the same force as if they were fully set forth herein. All initially capitalized terms used in this Mortgage without being defined herein shall have the meanings assigned in the Note or the Loan Agreement, as the case may be. The Recitals to this Mortgage are hereby made a part of this Mortgage to the same extent and with the same force as if they were fully set forth herein.



IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed and delivered effective as of the date first above written.

Signed, sealed, and delivered in the presence of:

  
Paula Gonzalez  
Printed Name

\_\_\_\_\_  
Printed Name

“MORTGAGOR”:

SPA 2, LLC  
a Delaware limited liability company

By: 

Name: Kenneth Stillwell  
Title: Manager



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STATE OF ~~ALABAMA~~ Florida  
COUNTY OF Hillsborough ) SS:

I, Ilia Cristina Fernandez, a Notary Public in and for said County in said State, hereby certify that Kenneth Steward Manager of SPA 2, LLC, a Delaware limited liability company, is signed to the foregoing Mortgage and who is known to me, acknowledged before me on this day that, being informed of the contents of said Mortgage, he or she, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this the 9th day of May, 2018

Ilia Cristina Fernandez  
Signature of Notary Public

My Commission expires 9/14/19

Name of Notary (Typed, Printed, or Stamped)



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**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

Lot 131, according to the Survey of Willow Lakes, as recorded in Map Book 38, Page 137 A, B and C, in the Probate Office of Shelby County, Alabama.

Parcel No.: 08-8-33-3-002-058-000

Commonly known as: 100 Willow Lake Lane, Wilsonville, AL 35186



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