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NPC International, Inc., as Mortgagor

("Mortgagor")

TO

Deutsche Bank Trust Company Americas, as Mortgagee

("Mortgagee")

**MORTGAGE AND
SECURITY AGREEMENT**

Dated: As of February [2], 2020
Location: 1000 Oak Mountain Cir.
City: Pelham, AL 35124

**PREPARED BY AND UPON
RECORDATION RETURN TO:**

Gibson, Dunn & Crutcher LLP
811 Main Street, Suite 3000
Houston, Texas 77002
Attention: Kimberly Schlanger

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When Recorded Return To: K. Henderson
First American Title Insurance Company
National Commercial Services
1201 Walnut, Suite 700
Kansas City, MO 64106
File No: NCS 1002678

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (as the same may be amended, restated, replaced, supplemented or otherwise modified, being hereinafter referred to as this **"Security Instrument"**) is made as of this [21] day of February, 2020, by NPC International, Inc., a Kansas corporation, having its principal place of business at 4200 West 115th Street, Suite 200, Leawood, Kansas 66221, as mortgagor (**"Mortgagor"**), to Deutsche Bank Trust Company Americas, in its capacity as collateral agent for the Secured Parties (as defined in the Security Agreement), having an address at c/o Trust & Agency Services, 60 Wall Street, 24th Floor, New York, NY 10005, as mortgagee (together with its successors and assigns, **"Mortgagee"**). Unless otherwise defined herein, terms defined in the Credit Agreement (as defined below) and used herein will have the meanings given to them in the Credit Agreement.

RECITALS:

A. WHEREAS, reference is made to the First Lien Credit Agreement, dated as of April 20, 2017 (as amended by that certain Amendment No. 1 to First Lien Credit Agreement, dated as of July 11, 2017, that certain Successor Collateral Agent Agreement, dated as of January 31, 2018, that certain Joinder Agreement, dated as of April 9, 2018, that certain Joinder Agreement, dated as of August 19, 2019, and that certain Omnibus Amendment, Consent and Forbearance, dated as of January 21, 2020, and as further amended, restated, amended and restated, supplemented or otherwise modified from time to time, the **"Credit Agreement"**), among NPC Restaurant Holdings, LLC (**"Holdings"**), NPC International, Inc. (**"Parent Borrower"**), NPC Quality Burgers, Inc., and NPC Operating Company B, Inc. (each a **"Subsidiary Borrower"** and together with the Parent Borrower, the **"Borrowers"**), the lenders party thereto from time to time, (each a **"Credit Agreement Lender"** and, collectively, the **"Credit Agreement Lenders"**), KKR Loan Administration Services LLC (**"KKR"**), as the administrative agent (the **"First Lien Administrative Agent"**), and Deutsche Bank Trust Company Americas, as the collateral agent (the **"Collateral Agent"**), pursuant to which, among other things, (i) the Credit Agreement Lenders have severally agreed to make their respective Loans (as defined in the Credit Agreement) in the aggregate principal sum of Seven Hundred Fifty-Five Million and NO/100 Dollars (\$755,000,000.00), (ii) the Letter of Credit Issuer has agreed to issue Letters of Credit (collectively, the **"Extensions of Credit"**) upon the terms and subject to the conditions set forth therein and (iii) one or more Cash Management Banks or Hedge Banks may from time to time enter into Secured Cash Management Agreements or Secured Hedge Agreements with the Borrowers and/or their Restricted Subsidiaries;

B. Whereas, reference is made to pursuant to the First Lien Guarantee, dated as of April 20, 2017 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the **"Credit Agreement Guarantee"**), by and among Holdings, the Borrowers and the Collateral Agent, and that certain Guarantee, dated as of January 21, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the **"Priority Credit Agreement Guarantee"** and, together with the Credit Agreement Guarantee, collectively, the **"Guarantees"**), by and among Holdings, the Borrowers and the Collateral Agent, each Guarantor party thereto has jointly and severally agreed to continually, absolutely, unconditionally and irrevocably guarantee, as primary obligor and not merely as surety, to the

Collateral Agent for the benefit of the Secured Parties (as defined in the Security Agreement), the prompt and complete payment and performance, and not merely collection, when due (whether at the stated maturity, by acceleration or otherwise), in each case, in full of, respectively, the "Obligations" as defined in the Credit Agreement and the "Obligations" as defined in the Priority Credit (collectively, as used herein, the "**Obligations**"). The term "Obligations" expressly includes all indebtedness of Borrower owed to the Credit Agreement Lenders and the Priority Credit Agreement Lenders (defined below), whether now existing or hereafter arising and whether absolute or contingent;

C. WHEREAS, reference is made to the Super-Priority Term Loan Credit Agreement, dated as of January 21, 2020 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Priority Credit Agreement**"), among Holdings, the Borrowers, the lenders from time to time party thereto (each a "**Priority Credit Agreement Lender**" and, collectively, the "**Priority Credit Agreement Lenders**"), KKR Loan Administration Services LLC, as the Administrative Agent (in such capacity, the "**Priority Administrative Agent**") and the Collateral Agent, pursuant to which, among other things, the Priority Credit Agreement Lenders have severally agreed to make their respective Loans (as defined in the Priority Credit Agreement) in the aggregate principal sum of Thirty Five Million and No/100 Dollars (\$35,000,000.00);

D. WHEREAS, only \$491,221 in principal amount, plus accrued interest and costs and fees pursuant to this Security Instrument and the Credit Agreement and Priority Credit Agreement shall be secured, at any one time, by the property subject to this Security Instrument.

E. WHEREAS, the Mortgagor is a Borrower;

F. WHEREAS, the Mortgagor acknowledges that it will derive substantial direct and indirect benefit from each of the Extensions of Credit, the provisions of Secured Cash Management Agreements and Secured Hedge Agreements, and the extensions of the Loans under the Credit Agreement and/or the Priority Credit Agreement, as applicable; and

G. WHEREAS, this Security Instrument is given to secure the payment, fulfillment, and performance by the Borrowers of their Obligations under the Credit Agreement and Priority Credit Agreement, and each and every term and provision of the Credit Agreement and the Priority Credit Agreement, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument.

NOW THEREFORE, in consideration of the making of the Loans by the Lenders under the Credit Agreement and of the making of the Loans under the Priority Credit Agreement (collectively, as used herein, the "**Loans**") and the covenants, agreements, representations and warranties set forth in this Security Instrument:

ARTICLE 1

GRANTS OF SECURITY

Section 1.1 Property Mortgaged. Mortgagor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Mortgagee, with power of sale, for the benefit and security of the Lenders, all of the real, personal, tangible and intangible property, rights, interests and estates now owned, or hereafter acquired by Mortgagor (collectively, the “**Property**”) including, without limitation, the following:

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the “**Land**”);

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Mortgagor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise, be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the “**Improvements**”);

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, permits, licenses, rights of way and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All “equipment,” as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Mortgagor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, heating, ventilation or air conditioning equipment, garbage equipment and apparatus, incinerators, boilers, furnaces, motors, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Mortgagor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the “**Equipment**”). Notwithstanding the foregoing, Equipment shall not include any property belonging to any property manager of the Property or tenants under leases except to the extent that Mortgagor shall have any right or interest therein;

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(f) **Fixtures.** All Equipment now owned, or the ownership of which is hereafter acquired, by Mortgagor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Mortgagor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the **"Fixtures"**). Notwithstanding the foregoing, "Fixtures" shall not include any property which tenants are entitled to remove pursuant to leases, except to the extent that Mortgagor shall have any right or interest therein;

(g) **Personal Property.** All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts receivable, licenses, certificates and permits, and all other personal property of any kind or character whatsoever as defined in and subject to the provisions of the Uniform Commercial Code, whether tangible or intangible, other than Fixtures, which are now or hereafter owned by Mortgagor, located on or used in connection with the Land and Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the **"Personal Property"**), and the right, title and interest of Mortgagor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (as amended from time to time, the **"Uniform Commercial Code"**), superior in lien to the lien of this Security Instrument and all proceeds and products of the above;

(h) **Leases and Rents.** All leases (including, without limitation, ground leases, subleases or subsubleases), lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into (collectively, the **"Leases"**), whether before or after the filing by or against

103726662.2

Mortgagor of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the “**Bankruptcy Code**”) and all right, title and interest of Mortgagor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, rent equivalents, tenant termination and contraction fees, moneys payable as damages or in lieu of rent or rent equivalents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, deposits (including, without limitation, security, utility and other deposits) accounts and receipts from the Land and the Improvements whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code (collectively, the “**Rents**”) and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of and the performance of the Obligations;

(i) **Condemnation Awards.** All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to all or any portion of the Property, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Property including, without limitation, any award or awards, or settlements or payments, hereafter made resulting from (i) condemnation proceedings or the taking of all or any portion of the Improvements, the Equipment, the Fixtures, the Leases or the Personal Property, or any part thereof, under the power of eminent domain; or (ii) the alteration of grade or the location or the discontinuance of any street adjoining the Property or any portion thereof;

(j) **Insurance Proceeds.** All Insurance Proceeds in respect of the Property under any policies of insurance covering the Property or any part thereof (the “**Policies**”), including, without limitation, the right to receive and apply the proceeds of any Policies, judgments, or settlements made in lieu thereof, in connection with a Casualty Event to the Property. “**Insurance Proceeds**” means the proceeds arising from any claim under any and all Policies, whether or not such Policies are required by Mortgagee, including interest thereon and all in each case whether now or hereafter existing or arising;

(k) **Tax Certiorari.** All refunds, rebates or credits in connection with any reduction in Taxes charged against the Property, including, without limitation, as a result of tax certiorari or any applications or proceedings for reduction;

(l) **Conversion.** All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, Insurance Proceeds and awards, into cash or liquidation claims;

(m) **Rights.** The right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Mortgagee in the Property;

(n) **Agreements.** All agreements, contracts, certificates, instruments, permits, licenses, plans, specifications and other documents, now or hereafter entered into by Mortgagor,

103726662.2

and all rights of Mortgagor therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements on the Land and any part thereof, including, without limitation, the right, upon the happening of any Event of Default, to receive and collect any sums payable to Mortgagor thereunder;

(o) Proceeds. All proceeds of any of the foregoing; and

(p) Other Rights. All other or greater rights and interests of every nature in the Real Property (as hereinafter defined) and in the possession or use thereof and income therefrom, whether now owned or hereafter acquired by Mortgagor (including, without limitation, any and all other rights of Mortgagor in and to the items set forth in Subsections (a) through (o) above).

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Mortgagor expressly grants to Mortgagee, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the “**Real Property**”) appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and mortgaged hereby to the maximum extent permitted by applicable law.

Notwithstanding the foregoing, or anything else to the contrary contained herein, the grants of lien and security in this Article 1 do not include any Excluded Property (as defined in the Security Agreement).

The grants of lien and security in this Article 1 are made subject to (i) that certain First Lien Intercreditor Agreement, dated as of January 21, 2020 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**First Lien Intercreditor Agreement**”), among Holdings, the Borrowers, the other Grantors party thereto from time to time, the Collateral Agent, KKR Loan Administration Services LLC, as Authorized Representative for the Credit Agreement Secured Parties, and KKR in its capacity as the Initial Additional Authorized Representative thereunder, and (ii) that certain the First Lien/Second Lien Intercreditor Agreement, dated as of April 20, 2017 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**First Lien/Second Lien Intercreditor Agreement**”, and together with the First Lien Intercreditor Agreement, each, an “**Intercreditor Agreement**” and collectively, the “**Intercreditor Agreements**”), among Holdings, the Borrowers, the other Grantors party thereto from time to time, KKR, as Administrative Agent under the Priority Credit Agreement, KKR, as Designated Senior Representative, and KKR, as Initial Second Priority Representative, and the additional Representatives from time to time a party thereto.

Section 1.2 Assignment of Rents. Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all of Mortgagor’s right, title and interest in and to all current and future Leases and Rents; it being intended by Mortgagee that this assignment constitutes a present,

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absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Credit Agreement, the Priority Credit Agreement and Section 7.2(h) of this Security Instrument, Mortgagee grants to Mortgagor a revocable license to collect, receive, use and enjoy the Rents.

Section 1.3 Security Agreement. This Security Instrument is both a real property mortgage and a “security agreement” within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Property. By executing and delivering this Security Instrument, Mortgagor hereby grants to Mortgagee, as security for the Obligations, a security interest in the Fixtures, the Equipment, the Personal Property and the other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the “**Collateral**”). If an Event of Default shall occur and be continuing, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, in accordance with Section 5.5 of the Security Agreement, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Mortgagor shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Mortgagor shall pay to Lender on demand any and all expenses, including reasonable legal expenses and attorneys’ fees and costs, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default to the extent permitted by Section 13.5 of the Credit Agreement and Section 13.5 of the Priority Credit Agreement (without duplication). Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral sent to Mortgagor in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Mortgagor. Subject to the terms of the Intercreditor Agreements, Mortgagee shall apply the proceeds of any collection or sale of the Collateral as well as any collateral consisting of cash, at any time after receipt in the order set forth in Section 2.01(a) of the First Lien Intercreditor Agreement. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Mortgagee to the payment of the Obligations in such priority and proportions as provided in the Credit Agreement. Mortgagor’s (debtor’s) principal place of business is as set forth on the first page hereof and the address of Mortgagee (secured party) is as set forth on the first page hereof.

Section 1.4 Fixture Filing. Certain of the Property is or will become “fixtures” (as that term is defined in the Uniform Commercial Code) on the Land, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement (naming Mortgagor as the Debtor with an

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address as set forth on the first page hereof and an organizational identification number of 0382580, and Mortgagee as the Secured Party with an address as set forth on the first page hereof) filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Mortgagee and its successors and assigns, forever;

WITH POWER OF SALE, to secure the Borrowers' payment to Mortgagee of the Obligations and performance of the Obligations at the time and in the manner provided in the Credit Agreement and the Priority Credit Agreement and this Security Instrument;

PROVIDED, HOWEVER, these presents are upon the express condition that, upon payment of the Obligations in full and upon the Termination Date (as defined in that certain Amended and Restated First Lien Security Agreement dated as of January 21, 2020, among Holdings, Borrowers, the Subsidiary Borrowers party thereto and Mortgagee (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement")) or as otherwise specifically provided in Section 6.5 of the Security Agreement, and subject to rights of reinstatement as provided in Section 6.6 of the Security Agreement (such provisions thereof shall be applicable hereunder to the Real Property as well as Collateral subject to the Lien of this Security Instrument), these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that Mortgagor's obligation to indemnify and hold harmless Mortgagee pursuant to the provisions hereof shall survive any such payment or release.

ARTICLE 2

OBLIGATIONS SECURED

Section 2.1 Obligations. This Security Instrument and the grants, assignments and transfers made in Article 1 hereof are given for the purpose of securing the Obligations up to the principal amount of Four Hundred Ninety-One Thousand Two Hundred Twenty-One Dollars (\$491,221), plus accrued interest, costs and fees incurred pursuant to the terms hereof.

ARTICLE 3

MORTGAGOR COVENANTS

Mortgagor covenants and agrees that:

Section 3.1 Payment of Obligations. Subject to the Intercreditor Agreements, Mortgagor will pay the Obligations at the time and in the manner provided in the Credit Agreement, the Priority Credit Agreement and this Security Instrument.

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Section 3.2 Incorporation by Reference. All the representations, warranties, covenants, conditions and agreements contained in the Credit Agreement and Priority Credit Agreement are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 Maintenance of Property. Mortgagor shall cause the Property to be maintained in a good and safe condition and repair in accordance with Section 9.8 of the Credit Agreement and Section 9.8 of the Priority Credit Agreement. Mortgagor shall not make or conduct any Asset Sales of any portion of the Property except as permitted in the Credit Agreement and Priority Credit Agreement.

Section 3.4 Waste. Mortgagor shall not commit or suffer any waste of the Property or take any action that would invalidate or allow the cancellation of any Policy.

Section 3.5 Liens. Subject to Mortgagor's rights to contest as provided in the Credit Agreement and Priority Credit Agreement, Mortgagor shall not create or permit any Liens on the Property, except for Permitted Liens and other Liens allowed under Section 10.2 of the Credit Agreement and Section 10.2 of the Priority Credit Agreement.

Section 3.6 Intentionally Deleted.

Section 3.7 Change of Name, Identity or Structure. Mortgagor shall not change Mortgagor's name, identity (including its trade name or names) or, if not an individual, Mortgagor's corporate, partnership or other structure without notifying Mortgagee of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Mortgagor's structure, without first obtaining the prior written consent of Mortgagee. Mortgagor shall execute and deliver to Mortgagee, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Mortgagee to establish or maintain the validity, perfection and priority of the security interests granted herein.

ARTICLE 4

DUTIES AND RELIANCES

Section 4.1 Relationship of Mortgagor and Mortgagee. The relationship between Mortgagor and Mortgagee is solely that of debtor and creditor, and Mortgagee has no fiduciary or other special relationship with Mortgagor, and no term or condition of this Security Instrument shall be construed so as to deem the relationship between Mortgagor and Mortgagee to be other than that of debtor and creditor.

Section 4.2 No Reliance on Mortgagee. The general partners, members, principals and (if Mortgagor is a trust) beneficial owners of Mortgagor, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Mortgagor is relying solely upon such expertise and business plan in connection with the ownership and operation of

the Property. Mortgagor is not relying on Mortgagee's expertise, business acumen or advice in connection with the Property.

Section 4.3 No Mortgagee Obligations.

(a) Notwithstanding the provisions of Subsections 1.1(h) and (n) or Section 1.2 hereof, Mortgagee is not undertaking the performance of (i) any duties or responsibility under the Leases, or (ii) any duties or responsibility with respect to any other agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses or other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Mortgagee pursuant to this Security Instrument, including, without limitation, any officer's certificate, survey, appraisal, or Policy, Mortgagee shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Mortgagee.

Section 4.4 Reliance. Mortgagor recognizes and acknowledges that in accepting the Credit Agreement and the Priority Credit Agreement, Mortgagee and the Lenders are expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Section 8 of the Credit Agreement and Section 8 of the Priority Credit Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Mortgagee or the Lenders; that such reliance existed on the part of Mortgagee and Lenders prior to the date hereof, that the warranties and representations are a material inducement to the Lenders in making the Loans; and that the Lenders would not be willing to make the Loans and accept this Security Instrument in the absence of the warranties and representations as set forth in Section 8 of the Credit Agreement and Section 8 of the Priority Credit Agreement.

ARTICLE 5

FURTHER ASSURANCES

Section 5.1 Recording of Security Instrument, etc. Mortgagor forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and to fully protect and perfect the Lien or security interest hereof upon, and the interest of Mortgagee in, the Property. Mortgagor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of this Security Instrument, any mortgage supplemental hereto, any other security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any mortgage supplemental hereto, any other security instrument with respect to the Property or any instrument

of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 5.2 Further Acts, etc. Mortgagor will, at the cost of Mortgagor, and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Mortgagee the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Requirements of Law. Mortgagor, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Mortgagee to execute in the name of Mortgagor or without the signature of Mortgagor to the extent Mortgagee may lawfully do so, one or more financing statements to evidence more effectively the security interest of Mortgagee in the Property. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Mortgagee at law and in equity, including, without limitation, such rights and remedies available to Mortgagee pursuant to this Section 5.2.

Section 5.4 Replacement Documents. Upon receipt of an affidavit of an officer of Mortgagee as to the loss, theft, destruction or mutilation of this Security Instrument which is not of public record, and, in the case of any such mutilation, Mortgagor will issue, in lieu thereof, a replacement Security Instrument, dated the date hereof and containing the same terms and provisions as contained in this Security Instrument.

ARTICLE 6

DUE ON SALE/TRANSFER

Section 6.1 No Sale/Change of Control. There shall be no sale of the Property except as permitted under the Credit Agreement and the Priority Credit Agreement, and there shall be no Change of Control except as permitted under the Credit Agreement and Priority Credit Agreement. Mortgagor acknowledges that Lenders will continue to rely on Mortgagor's ownership of the Property as a means of maintaining the Property as security for the repayment of and the performance of the Obligations.

RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 Default. The occurrence of an “Event of Default” under the Credit Agreement or the occurrence of an “Event of Default” under the Priority Credit Agreement shall constitute an “**Event of Default**” under this Security Instrument.

Section 7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default, Mortgagor agrees that Mortgagee may take such action, without notice or demand except as required in the Credit Agreement or the Priority Credit Agreement, to the fullest extent permitted by law, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

- (a) declare the entire unpaid Obligations to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure, in accordance with the law of the State in which the Property is located, of this Security Instrument under any applicable provision of law, in which case the Property, or any interest therein, may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Obligations then due and payable, subject to the continuing Lien and security interest of this Security Instrument for the balance of the Obligations not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law; and, without limiting the foregoing:
- (i) in connection with any sale or sales hereunder, Mortgagee shall be entitled to elect to treat any of the Property which consists of (x) a right in action, or (y) property that can be severed from the Real Property covered hereby, or (z) any Fixtures forming a part of Improvements (without causing structural damage thereto), as if the same were personal property, and dispose of the same in accordance with applicable law, separate and apart from the sale of the Real Property. Where the Property consists of Real Property, Personal Property, Equipment or Fixtures, whether or not such Personal Property or Equipment is located on or within the Real Property, Mortgagee shall be entitled to elect to exercise its rights and remedies

against any or all of the Real Property, Personal Property, Equipment and Fixtures in such order and manner as is now or hereafter permitted by applicable law;

(ii) Mortgagee shall be entitled to elect to proceed against any or all of the Real Property, Personal Property, Equipment and Fixtures in any manner permitted under applicable law; and if Mortgagee so elects pursuant to applicable law, the power of sale herein granted shall be exercisable with respect to all or any of the Real Property, Personal Property, Equipment and Fixtures covered hereby, as designated by Mortgagee;

(iii) should Mortgagee elect to sell any portion of the Property which is Real Property or which is Personal Property, Equipment or Fixtures that the Mortgagee has elected under applicable law to sell together with Real Property in accordance with the laws governing a sale of the Real Property, Mortgagee shall give such notice of the occurrence of an Event of Default, and its election to sell such Property, as may then be required by law. Thereafter, upon the giving of such notice of sale and the expiration of any required time period as may then be required by law, subject to the terms hereof, and without the necessity of any demand on Mortgagor or Mortgagee at the time and place specified in the notice of sale, shall sell such Real Property or part thereof at public auction to the highest bidder for cash in lawful money of the United States. Mortgagee may from time to time postpone any sale hereunder by public announcement thereof at the time and place noticed for any such sale; and

(iv) if the Property consists of several lots, parcels or items of property, Mortgagee shall, subject to applicable law, (A) designate the order in which such lots, parcels or items shall be offered for sale or sold, or (B) elect to sell such lots, parcels or items through a single sale, or through two or more successive sales, or in any other manner Mortgagee designates in Mortgagee's sole discretion. Any Person, including Mortgagor or Mortgagee, may purchase at any sale hereunder. Should Mortgagee desire that more than one sale or other disposition of the Property be conducted, Mortgagee shall, subject to applicable law, cause such sales or dispositions to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Mortgagee may designate, and no such sale shall terminate or otherwise affect the lien of this Security Instrument on any part of the Property not sold until all the Obligations have been satisfied in full. In the event Mortgagee elects to dispose of the Property through more than one sale, except as otherwise provided by applicable law, Mortgagor agrees to pay the costs and expenses of each such sale and of any judicial proceedings wherein such sale may be made;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Credit Agreement or in the other "Security Documents" as defined in the Credit Agreement or "Security Documents" as defined in the Priority Credit Agreement (collectively, as used herein, "**Security Documents**");

(f) recover judgment on any promissory note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Security Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without regard for the adequacy of the security for the Obligations and without regard for the solvency of Mortgagor, any guarantor or indemnitor with respect to the Loans or any Person otherwise liable for the payment of the Obligations or any part thereof;

(h) the license granted to Mortgagor under Section 1.2 hereof shall automatically be revoked and Mortgagee may enter into or upon the Property, either personally or by its agents, nominees or attorneys, and dispossess Mortgagor and its agents and servants therefrom, without liability for trespass, damages or otherwise, and exclude Mortgagor and its agents or servants wholly therefrom, and take possession of the Property and all books, records and accounts relating thereto and Mortgagor agrees to surrender possession of the Property and of such books, records and accounts to Mortgagee upon demand, and thereupon Mortgagee may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat, (ii) complete any construction on the Property in such manner and form as Mortgagee deems advisable, (iii) make alterations, additions, renewals, replacements and improvements to or on the Property, (iv) exercise all rights and powers of Mortgagor with respect to the Property, whether in the name of Mortgagor or otherwise, including, without limitation, the right to make, cancel, enforce or modify any Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof, (v) require Mortgagor to vacate and surrender possession of the Property to Mortgagee or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise, and (vi) apply the receipts from the Property to the payment of and the performance of the Obligations, in such order, priority and proportions as set forth in the Intercreditor Agreements, after deducting therefrom (a) all expenses (including reasonable attorneys' fees and costs) incurred in connection with the aforesaid operations to the extent permitted by Section 13.5 of the Credit Agreement and Section 13.5 of the Priority Credit Agreement (without duplication) and (b) and all amounts necessary to pay the Taxes, insurance premiums for the Policies and other expenses in connection with the operation of the Property;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, in accordance with Section 5.5 of the Security Agreement, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment and/or the Personal Property or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and/or the Personal Property; and (ii) request Mortgagor at its expense to assemble the Fixtures, the Equipment and/or the Personal Property and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Fixtures, the Equipment and/or the Personal Property sent to Mortgagor in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall constitute commercially reasonable notice to Mortgagee; or pursue such other remedies as Mortgagee may have under applicable law.

(k) give notice to any tenants under the Leases to make rental payments directly to Mortgagee.

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In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of the Property, this Security Instrument shall continue as a Lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

Section 7.3 Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Mortgagee pursuant to this Security Instrument shall be applied by Mortgagee to the payment of the Obligations in such priority and proportions as set forth in the Intercreditor Agreements.

Section 7.4 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor, and without releasing Mortgagor from any Obligations hereunder, make any payment or do any act required of Mortgagor hereunder with respect to any Obligations which payment or action on the part of Mortgagee shall be in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or to collect the Obligations, and the cost and expense thereof (including reasonable attorneys' fees and expenses to the extent permitted by law), with interest as provided in this Section 7.4, that are payable pursuant to Section 13.5 of the Credit Agreement and Section 13.5 of the Priority Credit Agreement (without duplication), shall constitute a portion of the Obligations and shall be due and payable to Mortgagee upon demand. All such costs and expenses incurred by Mortgagee in remedying any Event of Default or in appearing in, defending, or bringing any such action or proceeding, as hereinabove provided, shall bear interest at the Default Rate, for the period beginning on the first day after notice from Mortgagee that such cost or expense was incurred and continuing until the date of payment to Mortgagee. All such costs and expenses incurred by Mortgagee together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Obligations and to be secured by this Security Instrument and shall be due and payable by Mortgagor therefor as provided in Section 13.5 of the Credit Agreement and Section 13.5 of the Priority Credit Agreement (without duplication).

Section 7.5 Actions and Proceedings. Upon the occurrence and during the continuance of an Event of Default, Mortgagee may (i) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Property or any portion thereof and to enforce any other right in respect of any of the Property; (ii) defend any suit, action or proceeding brought against Mortgagor with respect to any of the Property (with Mortgagor's consent to the extent such action or its resolution could materially affect Mortgagor or any of its Affiliates in any manner other than with respect to its continuing rights in such Property); and (iii) settle, compromise or adjust any such suit, action or proceeding with respect to any of the Property and, in connection therewith, give such discharges or releases as the Mortgagee may deem appropriate (with Mortgagor's consent to the extent such action or its resolution could materially affect Mortgagor or any of its Affiliates in any manner other than with respect to its continuing rights in such Property).

Section 7.6 Intentionally Deleted.

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Section 7.7 Other Rights, etc.

(a) The failure of Mortgagee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (i) the failure of Mortgagee to comply with any request of Mortgagor or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the other Security Documents, (ii) the release, regardless of consideration, of any part of the Property, or of any Person liable for the Obligations or any portion thereof, or (iii) any agreement or stipulation by Mortgagee and the Lenders extending the time of payment or otherwise modifying or supplementing the terms of this Security Instrument or the other Security Documents, except to the extent expressly provided therein.

(b) It is agreed that the risk of loss or damage to the Property is on Mortgagor, and Mortgagee shall have no liability whatsoever for any decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Mortgagee shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Property or collateral not in Mortgagee's possession.

(c) Upon the occurrence and during the continuance of an Event of Default, Mortgagee may resort for the payment of and the performance of the Obligations to any other security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect. Mortgagee may take action to recover the Obligations, or any portion thereof, or to enforce the Obligations or any covenant hereof without prejudice to the right of Mortgagee thereafter to foreclose this Security Instrument. The rights of Mortgagee under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Mortgagee shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 7.8 Right to Release Any Portion of the Property. Upon the occurrence and during the continuance of an Event of Default, Mortgagee may release any portion of the Property for such consideration as Mortgagee may require without, as to the remainder of the Property, in any way impairing or affecting the Lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Obligations shall have been reduced by the consideration received by Mortgagee for such release. This Security Instrument shall continue as a Lien and security interest in the remaining portion of the Property.

Section 7.9 Intentionally Deleted.

Section 7.10 Recourse and Choice of Remedies. Notwithstanding any other provision of this Security Instrument, Mortgagee is entitled to enforce the obligations of Mortgagor contained in Section 8.1 herein without first resorting to or exhausting any security or collateral

103726662.2

and without first having recourse to any promissory note secured by the Property or any of the Property, through foreclosure, exercise of a power of sale or acceptance of a deed in lieu of foreclosure or otherwise, and in the event Mortgagee commences a foreclosure action against the Property or exercises its power of sale pursuant to this Security Instrument, Mortgagee is entitled to pursue a deficiency judgment with respect to such obligations against Mortgagor and any guarantor or indemnitor with respect to the Loans. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Mortgagee from foreclosing or exercising its power of sale pursuant to this Security Instrument or exercising any other rights and remedies pursuant to the Credit Agreement, the Priority Credit Agreement, this Security Instrument and the other Security Documents, whether simultaneously with foreclosure proceedings or in any other sequence, subject to the Intercreditor Agreements. A separate action or actions may be brought and prosecuted against Mortgagor pursuant to Section 8.1 hereof whether or not an action is brought against any other Person and whether or not any other Person is joined in the action or actions.

Section 7.11 Right of Entry. Upon reasonable notice to Mortgagor (which may be given verbally), Mortgagee and its agents shall have the right to enter and inspect the Property at all reasonable times.

Section 7.12 Mortgagee Not Obligated; Cumulative Rights. Nothing in this instrument shall be construed as obligating Mortgagee to take any action or incur any liability with respect to the Property, and all options given to Mortgagee are for its benefit and shall and may be exercised in such order and in such combination as Mortgagee in its sole discretion may from time to time decide. Each remedy is distinct and cumulative to all other rights and remedies under this Security Instrument and the Security Documents or afforded by law or equity, and may be exercised concurrently, independently or successively, in any order whatsoever.

ARTICLE 8

MORTGAGE TAX INDEMNIFICATION

Section 8.1 Mortgage and/or Intangible Tax. Mortgagor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Persons from and against any and all Indemnified Liabilities imposed upon, incurred by or asserted against any Indemnified Persons arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, in accordance with the provisions of the Credit Agreement and the Priority Credit Agreement, but excluding any income, franchise or other similar taxes.

ARTICLE 9

WAIVERS

Section 9.1 Intentionally Deleted.

Section 9.2 Marshalling and Other Matters. To the extent permitted by applicable law, Mortgagor hereby waives the benefit of all appraisal, valuation, stay, extension,

103726662.2

reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, to the extent permitted by applicable law, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Mortgagor, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument.

Section 9.3 Waiver of Notice. TO THE EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGOR SHALL NOT BE ENTITLED TO ANY NOTICES OF ANY NATURE WHATSOEVER FROM MORTGAGEE WITH RESPECT TO THIS SECURITY INSTRUMENT EXCEPT WITH RESPECT TO MATTERS FOR WHICH THIS SECURITY INSTRUMENT OR THE CREDIT AGREEMENT, THE PRIORITY CREDIT AGREEMENT OR OTHER SECURITY DOCUMENTS EXPRESSLY PROVIDE FOR THE GIVING OF NOTICE TO MORTGAGOR AND EXCEPT WITH RESPECT TO MATTERS FOR WHICH MORTGAGEE IS REQUIRED BY APPLICABLE LAW TO GIVE NOTICE, AND MORTGAGOR HEREBY EXPRESSLY WAIVES THE RIGHT TO RECEIVE ANY NOTICE FROM MORTGAGEE OR THE ADMINISTRATIVE AGENT(S) WITH RESPECT TO ANY MATTER WITH RESPECT TO THIS SECURITY INSTRUMENT FOR WHICH THIS SECURITY INSTRUMENT OR THE CREDIT AGREEMENT OR PRIORITY CREDIT AGREEMENT DOES NOT EXPRESSLY PROVIDE FOR THE GIVING OF NOTICE TO MORTGAGOR.

Section 9.4 Waiver of Statute of Limitations. To the extent permitted by applicable law, Mortgagor hereby expressly waives and releases its right to plead any statute of limitations as a defense to payment of or performance of the Obligations.

Section 9.5 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS SECURITY INSTRUMENT AND FOR ANY COUNTERCLAIM HEREIN.

ARTICLE 10

EXCULPATION

The provisions of Section 12.3 of the Credit Agreement and Section 12.3 of the Priority Credit Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

ARTICLE 11

NOTICES

All notices or other written communications hereunder shall be delivered in accordance with Section 13.2 of the Credit Agreement and Section 13.2 of the Priority Credit Agreement.

103726662.2

APPLICABLE LAW

Section 12.1 Governing Law; Jurisdiction; Service of Process. WITH RESPECT TO MATTERS RELATING TO THE ATTACHMENT, CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THE LIENS CREATED PURSUANT TO THIS SECURITY INSTRUMENT, THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE LAND IS LOCATED (WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF), IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK (WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF) SHALL GOVERN ALL MATTERS RELATING TO THIS SECURITY INSTRUMENT AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER. ALL PROVISIONS OF THE CREDIT AGREEMENT AND THE PRIORITY CREDIT AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 12.2 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

ARTICLE 13

DEFINITIONS

All capitalized terms not defined herein shall have the respective meanings set forth in the Credit Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in the singular or plural form and the word "Mortgagor" shall mean "each Mortgagor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms and the singular form of nouns and pronouns shall include the plural and vice versa.

103726662.2

MISCELLANEOUS PROVISIONS

Section 14.1 No Oral Change. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Mortgagor or Mortgagee, but only by an agreement in writing signed by the party(ies) against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 14.2 Successors and Assigns. This Security Instrument shall be binding upon and shall inure to the benefit of Mortgagor and Mortgagee and their respective successors and permitted assigns, as set forth in the Credit Agreement and Priority Credit Agreement and as may be limited by the First Lien Intercreditor Agreement. Any permitted assignee or transferee of Mortgagee shall be entitled to all the benefits afforded to Mortgagee under this Security Instrument. Mortgagor shall not have the right to assign, delegate or transfer its rights or obligations under this Security Instrument without the prior written consent of Mortgagee, as provided in the Credit Agreement, Priority Credit Agreement and First Lien Intercreditor Agreement, and any attempted assignment, delegation or transfer without such consent shall be null and void.

Section 14.3 Inapplicable Provisions. If any term, covenant or condition of this Security Instrument is held to be invalid, illegal or unenforceable in any respect, this Security Instrument shall be construed without such provision.

Section 14.4 Headings, etc. The headings and captions of the various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 14.5 Subrogation. If any or all of the proceeds of the Loan have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Mortgagee shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Mortgagee and are merged with the lien and security interest created herein as cumulative security for the payment of and the performance of the Obligations and discharge of Mortgagor's obligations hereunder, under the Credit Agreement, the Priority Credit Agreement and the other Security Documents.

Section 14.6 Entire Agreement. The Credit Agreement, the Priority Credit Agreement, the First Lien Intercreditor Agreement, this Security Instrument and the other Security Documents constitute the entire understanding and agreement between Mortgagee and Mortgagor with respect to the transactions arising in connection with the Obligations and supersede all prior written or oral understandings and agreements between Mortgagee and Mortgagor with respect thereto. Mortgagor hereby acknowledges that, except as incorporated in writing in the Credit Agreement, the Priority Credit Agreement, the Intercreditor Agreements,

103726662.2

this Security Instrument and the other Security Documents, there are not, and were not, and no Persons are or were authorized by Mortgagee to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Credit Agreement, the Priority Credit Agreement, the Intercreditor Agreements, this Security Instrument and the other Security Documents.

Section 14.7 Limitation on Mortgagee's Responsibility. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Mortgagee, nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. To the maximum extent provided by applicable law, nothing herein contained shall be construed as constituting Mortgagee a "mortgagee in possession."

Section 14.8 Principles of Construction; Priority and Intercreditor Agreements. In the event of any inconsistencies between the terms and conditions of this Security Instrument and the terms and conditions of the Credit Agreement and/or the Priority Credit Agreement, the terms and conditions of the Credit Agreement and Priority Credit Agreement shall control and be binding; provided, however, in the event of any inconsistencies between the terms and conditions of this Security Instrument and the terms and conditions of the First Lien Intercreditor Agreement or Second Lien Intercreditor Agreement in any respect, the terms and conditions of the applicable Intercreditor Agreement shall govern in any event and shall control and be binding notwithstanding the terms of the Credit Agreement or Priority Credit Agreement or this Security Instrument. All matters with respect to priority of the Lien of this Security Instrument and priority of payment due hereunder are governed by the Intercreditor Agreements.

Section 14.9 Severability. In case any one or more of the provisions of this Security Instrument is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

Section 14.10 No Partnership or Joint Venture. No provision of this Security Instrument or any of the other Security Documents shall constitute a partnership, joint venture, tenancy in common or joint tenancy between Mortgagor and Mortgagee, it being intended that the only relationship created by this Security Instrument, the Credit Agreement, the Priority Credit Agreement and the other Security Documents shall be that of debtor and creditor.

Section 14.11 No Merger. So long as the Obligations owed to Mortgagee and the Lenders secured hereby remain unpaid and undischarged and unless Mortgagee otherwise consents in writing, the fee, leasehold, subleasehold and sub-subleasehold estates in and to the Property will not merge but will always remain separate and distinct, notwithstanding the union of such estates (without implying Mortgagee's consent to such union) either in Mortgagor, Mortgagee, any tenant or any third party by purchase or otherwise, in the event this Security Instrument is originally placed on a leasehold estate and Mortgagor later obtains fee title to the Property, such fee title will be subject and subordinate to this Security Instrument.

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STATE-SPECIFIC PROVISIONS

Section 15.1 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 15 and the terms and conditions of this Security Instrument, the terms and conditions of this Article 15 shall control and be binding.

Section 15.2 Foreclosure Procedure. Upon the occurrence of an Event of Default and the expiration of any applicable cure periods, Mortgagee upon acceleration of the Obligations owed and election to exercise the power of sale granted herein, Mortgagee shall be authorized to take possession of the Property and with or without taking possession, after giving at least twenty-one days' notice of the time, place and terms of sale by publication once a week for three consecutive weeks in a newspaper of general circulation published in the county in which the Property is located, to sell the Property in front of the courthouse door of said county, at public outcry, to the highest bidder for cash, and to apply the proceeds of said sale as follows: first, to the expense of advertising, selling and conveying the Property and foreclosing this mortgage, including a reasonable attorneys' fee; second, to the payment of any amounts that have been spent, or that it may then be necessary to spend, in paying insurance premiums, ad valorem taxes, liens or other encumbrances which prime Mortgagee's interest, with interest thereon; third, to the payment in full of the balance of the indebtedness secured hereby, whether the same shall or shall not have fully matured at the date of said sale; and, fourth, the remaining balance, if any, to be paid to the party or parties appearing of record to be entitled thereto, including the owner of the Property at the time of the sale, after deducting the cost of ascertaining such parties. At its election, Mortgagee may interplead such remaining funds. The Mortgagor agrees that the Mortgagee may elect in its sole discretion to sell the Property en masse or in parcels and may bid at any sale had under the terms of this Mortgage and may purchase the Property if the highest bidder therefor and Mortgagee is authorized to deliver a deed in the name of Mortgagor to the highest bidder.

[No Further Text on this Page; Signature Page Follows]

IN WITNESS WHEREOF, this Security Instrument has been executed by Mortgagor as of the day and year first above written.

MORTGAGOR:

NPC INTERNATIONAL, INC.,
a Kansas corporation

By: _____

Name: David Wahlert

Title: CFO, Pizza Hut

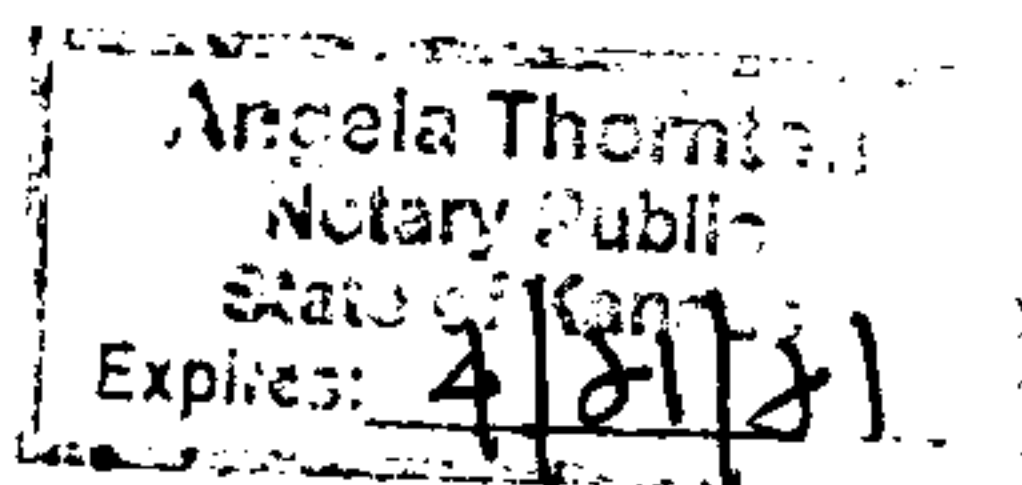
ACKNOWLEDGMENT

STATE OF KANSAS)
)
) ss.
COUNTY OF Johnson)

On this 19 day of February 2020, before me, the undersigned a Notary Public in and for the county and State aforesaid, personally appeared David Wahlert, personally known to me and known to me to be the CFO, Pizza Hut of NPC International, Inc., a Kansas corporation, and the same person who executed the foregoing instrument, and duly acknowledged said execution to be for and on behalf of and as the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal on the day and year last above written.

[SEAL]



Angela Thornton
NOTARY PUBLIC
Angela Thornton

My Commission expires: 4/21/21

EXHIBIT ALEGAL DESCRIPTION

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

Commence at the Southwest corner of said 1/4 section; thence run East along the South line of same for 1,826.71 feet; thence 122 deg. 59 min. 53 sec. left and run Northwesterly for 399.97 feet to a point on the Northerly right of way line of Oak Mountain Park Road; thence continue Northwesterly along the same course for 846.69 feet; thence 91 deg. 18 min. 39 sec. right and run Northeasterly for 152.01 feet; thence 90 deg. left and run Northwesterly for 349.02 feet; thence 90 deg. left and run Southwesterly for 160.00 feet; thence 88 deg. 41 min. 21 sec. right and run Northwesterly for 25.0 feet to a point on the South right of way line of Alabama Highway 119; thence 91 deg. 18 min. 39 sec. right and run Northeasterly along said right of way line for 253.07 feet; thence 14 deg. 02 min. 10 sec. right and continue Northeasterly for 9.51 feet to a point on the Southerly right of way line of a County Road; thence 30 deg. 57 min. 50 sec. right and run Easterly along said right of way line for 62.56 feet to an angle point in said right of way; thence 45 deg. 00 min. right and run Southeasterly along said right of way line for 390.67 feet to an angle point in said right of way; thence 90 deg. left and run Northeasterly for 375.98 feet to a point on said right of way line, said point being the point of beginning; thence continue Northeasterly along said right of way for 200.0 feet to a point on the Westerly right of way line of 1-65 Service Drive; thence 86 deg. 19 min. 31 sec. right and run Southeasterly along said right of way line for 142.98 feet; thence 22 deg. 07 min. 10 sec. right and run Southeasterly along said right of way line for 23.50 feet; thence 82 deg. 02 min. 49 sec. right and run Southwesterly for 205.16 feet; thence 79 deg. 30 min. 00 sec. right and run Northwesterly for 127.59 feet to the point of beginning; being situated in Shelby County, Alabama,

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Allen S. Bayl