

This Instrument was prepared by:  
Walter F. Scott III, Esq.  
GALLOWAY, SCOTT & HANCOCK, LLC  
2200 Woodcrest Place, Suite 310  
Birmingham, Alabama 35209  
Telephone: 205.949.5580

20220504000182470  
05/04/2022 10:35:34 AM  
MORT 1/23

---

*(ABOVE SPACE FOR RECORDER'S USE)*

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

by

CJA PARTNERS, LLC, a New Jersey limited liability company,  
as Mortgagor,

to and in favor of

FIRST HORIZON BANK, a Tennessee banking corporation,  
as Lender

This document serves as a Fixture Filing under the Alabama Uniform Commercial Code.

THIS MORTGAGE SECURES OBLIGATORY ADVANCES AND IS MADE FOR  
COMMERCIAL PURPOSES.

MAXIMUM PRINCIPAL INDEBTEDNESS FOR ALABAMA RECORDING TAX PURPOSES  
IS \$500,000.00.

**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.**

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

This Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing (the “Mortgage”) is made as of the 3<sup>rd</sup> day of May, 2022, by CJA PARTNERS, LLC, a New Jersey limited liability company (herein referred to as “Mortgagor”), whose address is 206 Cahaba Lake Circle, Helena, Alabama 35080, to FIRST HORIZON BANK, a Tennessee banking corporation (“Lender”), whose address is 2340 Woodcrest Place, Birmingham, Alabama 35209.

**Preliminary Statements**

Mortgagor and Lender have entered into a Loan Agreement of even date herewith (the “Loan Agreement”), pursuant to which Lender has agreed to loan to Mortgagor up to \$500,000.00 (the “Loan”). As a condition precedent to making the Loan, Lender has required that Mortgagor execute and deliver this Mortgage to Lender.

**Agreements**

Now, therefore, in consideration of the agreements set forth in the Loan Agreement and the other Loan Documents and in order to induce Lender to make the Loan to Mortgagor, Mortgagor agrees as follows:

**Article I  
Definitions.**

As used in this Mortgage, capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement. In addition, the following additional terms shall have the meanings specified:

“Accessories” means all fixtures, equipment, systems, machinery, furniture, furnishings, appliances, inventory, goods, building and construction materials, supplies and other articles of personal property, of every kind and character, tangible and intangible, now owned or hereafter acquired by Mortgagor, which are now or hereafter attached to or situated in the Land or Improvements, or used in or necessary to the complete and proper construction or operation thereof, or acquired for use or installation in or on the Land or Improvements, and all Additions to the foregoing, all of which are hereby declared to be permanent accessions to the Land.

“Accounts” means all accounts of Mortgagor within the meaning of the Uniform Commercial Code of the State, arising out of the use, occupancy or enjoyment of the Property.

“Additions” means any and all alterations, additions, accessions and improvements to property, and renewals and replacements thereof.

“Lender” means First Horizon Bank and its successors and assigns.

“Casualty” means any act or occurrence of any kind or nature that results in damage, loss or destruction to the Property.

“Claim” means any liability, suit, action, claim, demand, loss, expense, penalty, fine, judgment or other cost of any kind or nature whatsoever, including fees, costs and expenses of attorneys, consultants, contractors and experts.

“Condemnation” means any taking of title to, use of, or any other interest in the Property under the exercise of the power of condemnation or eminent domain, whether temporarily or permanently, by any Governmental Authority or by any other Person acting under or for the benefit of a Governmental Authority.

“Condemnation Awards” means any and all judgments, awards of damages (including severance and consequential damages), payments, proceeds, settlements, amounts paid for a taking in lieu of Condemnation, or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, or in connection with, any Condemnation or threatened Condemnation.

“Mortgage” means this Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

“Default” means an event or circumstance which, with the giving of Notice or lapse of time, or both, would constitute a Default under the provisions of this Mortgage.

“Encumbrance” means any Lien, easement, right of way, roadway (public or private), condominium regime, cooperative housing regime, condition, covenant or restriction (including any condition, covenant or restriction imposed in connection with any condominium development or cooperative housing development), Lease or other matter of any nature that would affect title to the Property.

“Expenses” means all fees, charges, costs and expenses of any nature whatsoever incurred at any time and from time to time by Lender in connection with the Loan, including without limitation, in exercising or enforcing any rights, powers and remedies provided in this Mortgage or any of the other Loan Documents, including attorneys’ fees.

“Indemnity Agreement” means the Environmental Indemnity Agreement of even date herewith by and between Mortgagor and Lender pertaining to the Property, as the same may from time to time be extended, amended, restated or otherwise modified.

“Insurance Proceeds” means the insurance claims under and the proceeds of any and all policies of insurance covering the Property or any part thereof, including all returned and unearned premiums with respect to any insurance relating to such Property, in each case whether now or hereafter existing or arising.

“Land” means the real property described in Exhibit A attached hereto and made a part hereof.

“Leases” means all leases and other similar agreements, whether now existing or hereafter entered into, for space at the Property, including all lease guaranties related thereto, as the same may be amended or modified from time to time.



“Letter of Credit” means any letter of credit issued by Lender for the account of Mortgagor in connection with the development of the Project together with any and all extensions, renewals or modifications thereof, substitutions therefor or replacements thereof.

“Lien” means any mortgage, deed of trust, pledge, security interest, assignment, judgment, lien or charge of any kind, including any conditional sale or other title retention agreement, any lease in the nature thereof, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code of any jurisdiction.

“Net Proceeds”, when used with respect to any Condemnation Awards or Insurance Proceeds, means the gross proceeds from any Condemnation or Casualty remaining after payment of all expenses, including attorneys’ fees, incurred in the collection of such gross proceeds.

“Note” means the Promissory Note of even date herewith in the original principal amount of Five Hundred Thousand and No/100 Dollars (\$500,000.00) made by Mortgagor to the order of Lender, as the same may from time to time be extended, renewed, amended, restated, supplemented or otherwise modified.

“Notice” means a notice, request, consent, demand or other communication given in accordance with the provisions of the Loan Agreement.

“Obligations” means all present and future debts, obligations and liabilities of Mortgagor to Lender arising pursuant to, and/or on account of, the provisions of this Mortgage, the Note or any of the other Loan Documents, including the obligations: (a) to pay all principal, interest, late charges, prepayment premiums (if any) and other amounts due at any time under the Note, as the same may from time to time be extended, renewed, amended, restated, supplemented or otherwise modified; (b) to pay all Expenses, indemnification payments, fees and other amounts due at any time under this Mortgage or any of the other Loan Documents, together with interest thereon as herein or therein provided; (c) to perform, observe and comply with all of the other terms, covenants and conditions, expressed or implied, which Mortgagor is required to perform, observe or comply with pursuant to this Mortgage or any of the other Loan Documents; (d) to pay and perform all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Lender, when a writing evidences the parties’ agreement that the advance or obligation be secured by this Mortgage; and (e) all renewals, amendments, extensions and modifications of any of the foregoing.

“Permitted Encumbrances” means (a) any matters set forth in any policy of title insurance issued to Lender and insuring Lender’s interest in the Property which are acceptable to Lender as of the date hereof, (b) the Liens and interests of this Mortgage, and (c) any other Encumbrance that Lender shall expressly approve in its sole and absolute discretion, as evidenced by a “marked-up” commitment for title insurance initialed on behalf of Lender.

“Personalty” means all personal property of any kind or nature whatsoever, whether tangible or intangible and whether now owned or hereafter acquired, in which Mortgagor now has or hereafter acquires an interest and which is used in the construction of, or is placed upon, or is derived from or used in connection with the maintenance, use, occupancy or enjoyment of, the

Property, including (a) the Accessories; (b) the Accounts; (c) all franchise, license, management or other agreements with respect to the operation of the Real Property or the business conducted therein (provided all of such agreements shall be subordinate to this Mortgage, and Lender shall have no responsibility for the performance of Mortgagor's obligations thereunder) and all general intangibles (including payment intangibles, trademarks, trade names, goodwill, software and symbols) related to the Real Property or the operation thereof; (d) all sewer and water taps, appurtenant water stock or water rights, allocations and agreements for utilities, bonds, letters of credit, permits, certificates, licenses, guaranties, warranties, causes of action, judgments, Claims, profits, security deposits, utility deposits, and all rebates or refunds of fees, Taxes, assessments, charges or deposits paid to any Governmental Authority related to the Real Property or the operation thereof; (e) all insurance policies held by Mortgagor with respect to the Property or Mortgagor's operation thereof; and (f) all money, instruments and documents (whether tangible or electronic) arising from or by virtue of any transactions related to the Property, and all deposits and deposit accounts of Mortgagor with Lender related to the Property, including any such deposit account from which Mortgagor may from time to time authorize Lender to debit and/or credit payments due with respect to the Loan; together with all Additions to and Proceeds of all of the foregoing.

"Proceeds" when used with respect to any of the Property, means all proceeds of such Property, including all Insurance Proceeds and all other proceeds within the meaning of that term as defined in the Uniform Commercial Code of the State of Alabama.

"Property" means the Real Property and the Personalty and all other rights, interests and benefits of every kind and character which Mortgagor now has or hereafter acquires in, to or for the benefit of the Real Property and/or the Personalty and all other property and rights used or useful in connection therewith, including all Leases, all Rents, all Condemnation Awards, all Proceeds, and all of Mortgagor's right, title and interest in and to all Construction Contracts.

"Property Assessments" means all Taxes, payments in lieu of taxes, water rents, sewer rents, assessments, condominium and owner's association assessments and charges, maintenance charges and other governmental or municipal or public or private dues, charges and levies and any Liens (including federal tax liens) which are or may be levied, imposed or assessed upon the Property or any part thereof, or upon any Leases or any Rents, whether levied directly or indirectly or as excise taxes, as income taxes, or otherwise.

"Real Property" means the Land and Improvements, together with (a) all estates, title interests, title reversion rights, remainders, increases, issues, profits, rights of way or uses, additions, accretions, servitudes, strips, gaps, gores, liberties, privileges, water rights, water courses, alleys, passages, ways, vaults, licenses, tenements, franchises, hereditaments, appurtenances, easements, rights-of-way, rights of ingress or egress, parking rights, timber, crops, mineral interests and other rights, now or hereafter owned by Mortgagor and belonging or appertaining to the Land or Improvements; (b) all Claims whatsoever of Mortgagor with respect to the Land or Improvements, either in law or in equity, in possession or in expectancy; (c) all estate, right, title and interest of Mortgagor in and to all streets, roads and public places, opened or proposed, now or hereafter adjoining or appertaining to the Land or Improvements; and (d) all options to purchase the Land or Improvements, or any portion thereof or interest therein, and any greater estate in the Land or Improvements, and all Additions to and Proceeds of the foregoing.



“Rents” means all of the rents, royalties, issues, profits, revenues, earnings, income and other benefits of the Property, or arising from the use or enjoyment of the Property, including all such amounts paid under or arising from any of the Leases and all fees, charges, accounts or other payments for the use or occupancy of rooms or other public facilities within the Real Property.

“Taxes” means all taxes and assessments, whether general or special, ordinary or extraordinary, or foreseen or unforeseen, which at any time may be assessed, levied, confirmed or imposed by any Governmental Authority or any community facilities or other private district on Mortgagor or on any of its properties or assets or any part thereof or in respect of any of its franchises, businesses, income or profits.

“Transfer” means any direct or indirect sale, assignment, conveyance or transfer, including any contract or agreement to sell, assign, convey or transfer, whether made voluntarily or by operation of law or otherwise, and whether made with or without consideration.

## Article II Granting Clauses; Condition of Grant.

### Section 2.1 Conveyances and Security Interests.

In order to secure the prompt payment and performance of the Obligations, including without limitation, any and all renewals, amendments, extensions and modifications thereof, Mortgagor (a) grants, bargains, sells and conveys the Real Property unto Lender, with power of sale, the Real Property in fee simple forever with RIGHT OF ENTRY AND POSSESSION; provided that Mortgagor may retain possession of the Real Property until the occurrence of a Default; (b) grants to Lender a security interest in the Personalty; (c) assigns to Lender, and grants to Lender a security interest in, all Condemnation Awards and all Insurance Proceeds; and (d) assigns to Lender, and grants to Lender a security interest in, all of Mortgagor’s right, title and interest in, but not any of Mortgagor’s obligations or liabilities under, all Construction Documents.

TO HAVE AND TO HOLD, the foregoing rights, interests, and properties, and all rights, estates, powers and privileges appurtenant thereto, unto the Lender, and to Lender’s successors and assigns, in trust, in fee simple forever, subject to the terms and provisions set forth herein.

PROVIDED, HOWEVER, that these presents are upon the condition that, if the Obligations shall be paid, at the times and in the manner stipulated in the Note, any other of the Loan Documents, or any other documents evidencing the Obligations, and Mortgagor shall perform and observe or cause to be performed and observed all the covenants and promises contained in the Note, this Mortgage and all other Loan Documents, and any amendments, modifications, extensions, refinancings, renewals, consolidations, substitutions, and replacements thereof, all without fraud or delay, then this Mortgage, and all the interests and rights hereby granted, bargained, sold, and conveyed, shall cease, terminate and be void, but shall otherwise remain in full force and effect.

All Persons who may have or acquire an interest in all or any part of the Property will be deemed to have notice of, and will be bound by, the terms of the Obligations and each other agreement or instrument made or entered into in connection with each of the Obligations.

Section 2.2 Assignment of Leases and Rents.

In consideration of the making of the Loan by Lender to Mortgagor, the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor absolutely and unconditionally assigns the Leases and Rents to Lender. This assignment is, and is intended to be, an unconditional, absolute and present assignment from Mortgagor to Lender of all of Mortgagor's right, title and interest in and to the Leases and the Rents and not an assignment in the nature of a pledge of the Leases and Rents or the mere grant of a security interest therein. So long as no Default shall exist, however, and so long as Mortgagor is not in default in the performance of any obligation, covenant or agreement contained in the Leases, Mortgagor shall have a license (which license shall terminate automatically and without notice upon the occurrence of a Default or a default by Mortgagor under the Leases) to collect, but not prior to accrual, all Rents. Mortgagor agrees to collect and hold all Rents in trust for Lender and to use the Rents for the payment of the cost of operating and maintaining the Property and for the payment of the other Obligations before using the Rents for any other purpose.

Section 2.3 Security Agreement, Fixture Filing and Financing Statement.

This Mortgage creates a security interest in the Personalty, and, to the extent the Personalty is not real property, this Mortgage constitutes a security agreement from Mortgagor to Lender under the Uniform Commercial Code of the State of Alabama. In addition to all of its other rights under this Mortgage and otherwise, Lender shall have all of the rights of a secured party under the Uniform Commercial Code of the State of Alabama, as in effect from time to time, or under the Uniform Commercial Code in force from time to time in any other state to the extent the same is applicable law. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records of each county where any part of the Property (including such fixtures) is situated. This Mortgage shall also be effective as a financing statement with respect to any other Property as to which a security interest may be perfected by the filing of a financing statement and may be filed as such in any appropriate filing or recording office. The respective mailing addresses of Mortgagor (as debtor) and Lender (as secured party) are set forth in the opening paragraph of this Mortgage. A carbon, photographic, electronic image or other reproduction of this Mortgage or any other financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Section. Mortgagor hereby irrevocably authorizes Lender at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable law, reasonably required by Lender to establish or maintain the validity, perfection and priority of the security interests granted in this Mortgage.

Article III  
Representations and Warranties.

Mortgagor makes the following representations and warranties to Lender:



Section 3.1 Title to Real Property.

Mortgagor (a) owns fee simple title to the Real Property, (b) owns all of the beneficial and equitable interest in and to the Real Property, and (c) is lawfully seized and possessed of the Real Property. Mortgagor has the right and authority to convey the Real Property. The Real Property is subject to no Encumbrances other than the Permitted Encumbrances.

Section 3.2 Title to Other Property.

Mortgagor has good title to the Personalty, and the Personalty is not subject to any Encumbrance other than the Permitted Encumbrances. None of the Leases, Rents, or Construction Documents are subject to any Encumbrance other than the Permitted Encumbrances.

Section 3.3 Property Assessments.

The Real Property is assessed for purposes of Property Assessments as a separate and distinct parcel from any other property, such that the Real Property shall never become subject to the Lien of any Property Assessments levied or assessed against any property other than the Real Property.

Section 3.4 Independence of the Real Property.

The Real Property has been properly subdivided from all other property in accordance with the requirements of any applicable Governmental Authorities.

Section 3.5 Leases and Tenants.

The Leases are valid and are in full force and effect, and Mortgagor is not in default under any of the terms thereof.

Article IV  
Affirmative Covenants.

Section 4.1 Obligations.

Mortgagor agrees to promptly pay and perform all the Obligations, time being of the essence in each case.

Section 4.2 Property Assessments; Documentary Taxes.

Mortgagor (a) will promptly pay in full and discharge all Property Assessments, and (b) will furnish to Lender, upon demand, the receipted bills for such Property Assessments prior to the day upon which the same shall become delinquent.

Section 4.3 Permitted Contests.

Mortgagor shall not be required to pay any of the Property Assessments, or to comply with any law, so long as Mortgagor shall in good faith, and at its cost and expense, contest the amount or validity thereof, or take other appropriate action with respect thereto, in good faith and in an



appropriate manner or by appropriate proceedings; provided that (a) such proceedings operate to stay the collection of the Property Assessments or enforcement of the law so contested, (b) there will be no sale, forfeiture or loss of the Property during the contest, (c) Lender is not be subjected to any Claim as a result of such contest, and (d) Mortgagor provides assurances satisfactory to Lender (including the establishment of an appropriate reserve account with Lender) of its ability to pay such Property Assessments or comply with such law in the event Mortgagor is unsuccessful in its contest. Each such contest shall be promptly prosecuted to final conclusion or settlement, and Mortgagor shall indemnify and save Lender harmless against all Claims in connection therewith. Promptly after the settlement or conclusion of such contest or action, Mortgagor shall comply with such law and/or pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable, together with all penalties, fines, interests, costs and expenses in connection therewith.

So long as no Default exists, Mortgagor may, in good faith, and at its cost and expense, contest the amount or validity of any Property Assessments, or take other appropriate action with respect thereto, in good faith and in an appropriate manner or by appropriate proceedings; provided that (a) such proceedings operate to stay the collection of the Property Assessments or enforcement of any Law so contested, (b) there will be no sale, forfeiture or loss of the Property during the contest, (c) Lender is not subjected to any Claim as a result of such contest, and (d) unless such Property Assessments are to be paid by a tenant at the Property, Mortgagor provides assurances and/or security satisfactory to Lender (which may include the establishment of an appropriate reserve account with Lender) of its ability to pay such Property Assessments or comply with such Law in the event Mortgagor is unsuccessful in its contest. Each such contest shall be promptly prosecuted to final conclusion or settlement, and Mortgagor shall indemnify and save Lender harmless against all Claims in connection therewith. Promptly after the settlement or conclusion of such contest or action, Mortgagor (or a tenant at the Property) shall comply with such Law and/or pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable, together with all penalties, fines, interests, costs and expenses in connection therewith.

#### Section 4.4 Compliance with Laws.

Mortgagor will comply with and not violate, and cause to be complied with and not violated, all present and future laws applicable to the Property and its use and operation.

#### Section 4.5 Maintenance and Repair of the Property.

Mortgagor, at Mortgagor's sole expense, will (a) keep and maintain the Improvements and Accessories in good condition, working order and repair, and (b) make all necessary or appropriate repairs and Additions to Improvements and Accessories, so that each part of the Improvements and all of the Accessories shall at all times be in good condition for the respective purposes for which they were originally intended.

#### Section 4.6 Additions to Security.

All right, title and interest of Mortgagor in and to all Improvements and Additions hereafter constructed or placed on the Property and in and to any Accessories hereafter acquired shall, without any further Mortgage, conveyance, assignment or other act by Mortgagor, become subject

to the Lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described in the granting clauses hereof. Mortgagor agrees, however, to execute and deliver to Lender such further documents as may be required by the terms of the Loan Agreement and the other Loan Documents.

Section 4.7 Subrogation.

To the extent permitted by law, Lender shall be subrogated, notwithstanding its release of record, to any Lien now or hereafter existing on the Property to the extent that such Lien is paid or discharged by Lender whether or not from the proceeds of the Loan. This Section shall not be deemed or construed, however, to obligate Lender to pay or discharge any Lien.

Section 4.8 Insurance.

Mortgagor shall maintain, at its sole cost and expense, insurance, as required by Lender's insurance requirements, to include, without limitation:

(a) "All Risk" insurance against casualty to the Property, including, but not limited to, fire, lightning, windstorm, hail, explosion, and riot. Such insurance shall name Lender as mortgagee and loss payee in accordance with Lender's insurance requirements. Unless otherwise agreed in writing by Lender, such insurance shall be for the full insurable value of the Property, and in a form otherwise satisfactory to Lender.

(b) Comprehensive general liability insurance on an "occurrence" basis against claims for "personal injury" liability and liability for death, bodily injury and damage to property, in limits satisfactory to Lender with respect to any one occurrence and the aggregate of all occurrences during any given annual policy period. Such insurance shall name Lender as an additional insured.

(c) Workers' compensation insurance for all employees of Mortgagor as required by law.

(d) During any period of construction upon the Property, Mortgagor shall maintain, or cause others to maintain, builder's risk insurance (non-reporting form) for one hundred percent (100%) of the full replacement cost of work in place and materials stored at or upon the Property.

(e) If at any time any portion of any structure on the Property is insurable against casualty by flood and is located in a Special Flood Hazard Area, as determined by Lender, a flood insurance policy in form and amount acceptable to Lender, as required by applicable law.

(f) Loss of rental value insurance or business interruption insurance as required by Lender.

(g) Such other and further insurance as may be required from time to time by Lender.



In addition to the foregoing, during any period of construction Mortgagor shall cause the Contractor to provide and maintain insurance as required by Lender's insurance requirements, to include comprehensive (commercial) general liability insurance and workers' compensation insurance for all employees of the Contractor.

Mortgagor acknowledges receiving Lender's insurance requirements. Each policy of insurance maintained by Mortgagor shall meet Lender's insurance requirements and be otherwise acceptable to Lender.

Any failure by Lender to insist on full compliance with the above insurance requirements at closing does not constitute a waiver of Lender's right to subsequently require full compliance with these requirements.

Mortgagor acknowledges and agrees that if Mortgagor fails to provide any required insurance on the terms set forth herein or in any other Loan Documents, or fails to continue such insurance in force in compliance with the requirements of this agreement or any other Loan Documents, Lender may purchase insurance at Mortgagor's expense as provided therein. Such insurance may protect Lender's interests, and may otherwise protect none of, or less than all of, Mortgagor's interests. The cost of any such insurance shall become a part of the Obligations and shall be payable on demand or added to the Note as provided herein, at Lender's option. MORTGAGOR ACKNOWLEDGES THAT IF LENDER SO PURCHASES ANY SUCH INSURANCE, THE INSURANCE MAY PROVIDE LIMITED PROTECTION AGAINST PHYSICAL DAMAGE TO THE COLLATERAL, UP TO THE BALANCE OF THE LOAN; HOWEVER, MORTGAGOR'S EQUITY IN THE COLLATERAL MAY NOT BE INSURED. IN ADDITION, THE INSURANCE MAY NOT PROVIDE ANY PUBLIC LIABILITY OR PROPERTY DAMAGE INDEMNIFICATION AND MAY NOT MEET THE REQUIREMENTS OF ANY FINANCIAL RESPONSIBILITY LAWS.

#### Section 4.9 Adjustment of Condemnation and Insurance Claims.

Mortgagor shall give prompt Notice to Lender of any Casualty or any Condemnation or threatened Condemnation. Lender is authorized, at its option, to commence, appear in and prosecute, in its own or Mortgagor's name, any proceeding relating to any Condemnation or Casualty, and to make proof of loss for and to settle or compromise any claim in connection therewith, or to permit Mortgagor to do so. In such case, Lender shall have the right to receive all Condemnation Awards and Insurance Proceeds and may deduct therefrom any or all of its costs. If any Condemnation Awards or Insurance Proceeds are paid to Mortgagor, Mortgagor shall receive the same in trust for Lender. Within ten (10) days after Mortgagor's receipt of any Condemnation Awards or Insurance Proceeds, Mortgagor shall deliver such awards or proceeds to Lender in the form in which they were received, together with any endorsements or documents that may be necessary to effectively negotiate or transfer the same to Lender. Mortgagor agrees to execute and deliver from time to time, upon the request of Lender, such further instruments or documents as may be requested by Lender to confirm the grant and assignment to Lender of any Condemnation Awards or Insurance Proceeds.

If no Default exists, Lender may permit Net Proceeds for the restoration of the Property if, in the reasonable judgment of Lender, (i) there has been no material adverse change in the financial

viability of the construction or operation of the Improvements, (ii) the Net Proceeds, together with other funds deposited with Lender for that purpose, are sufficient to pay the cost of the restoration pursuant to a budget and plans and specifications approved by Lender, and (iii) the restoration can be completed prior to the final maturity of the Loan and prior to the date required by the Permanent Loan Commitment/Purchase and Sale Agreement or any Lease. Otherwise, Net Proceeds shall be utilized for payment of the Obligations. If Net Proceeds are to be utilized for the restoration of the Property, the Net Proceeds, together with any other funds deposited with Lender for that purpose, shall be deposited in an interest-bearing account with Lender, which account will be assigned to Lender as additional security for the Loan. The account will be opened, managed and controlled in a manner consistent with, and subject to, the provisions of the Loan Agreement. Disbursements of funds from the account will be made in a manner consistent with the requirements under this Agreement for the disbursement of Loan proceeds.

#### Section 4.10 Deposits.

Following the occurrence of a Default, Mortgagor shall, upon demand by Lender, pay to Lender monthly, on the same date payments are due under the Note, a sum (herein "Funds") equal to one-twelfth of the yearly Property Assessments which may attain priority over this Mortgage and premiums for insurance, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof.

The Funds shall be held by Lender in an interest-bearing account, and Lender shall apply the Funds to pay said Property Assessments and insurance costs, as and when they shall be due and payable. The Funds are pledged as additional security for the sums secured by this Mortgage. If the amount of the Funds held by Lender shall not be sufficient to pay Property Assessments and insurance costs, when due, Mortgagor shall pay to Lender any amount necessary to make up the deficiency within fifteen (15) days from the date notice is mailed by Lender to Mortgagor requesting payment thereof. Upon payment in full of all Obligations, all Funds then held by Lender shall be returned to Mortgagor.

### Article V Negative Covenants.

#### Section 5.1 Encumbrances.

Mortgagor will not permit any of the Property to become subject to any Encumbrance other than the Permitted Encumbrances. Within thirty (30) days after the filing of any mechanic's lien or other Lien or Encumbrance against the Property, Mortgagor will promptly discharge the same by payment or filing a bond or otherwise as permitted by law. So long as Lender's security has been protected by the filing of a bond or otherwise in a manner satisfactory to Lender in its sole and absolute discretion, Mortgagor shall have the right to contest in good faith any Claim, Lien or Encumbrance, provided that Mortgagor does so diligently and without prejudice to Lender or delay in completing construction of the Improvements. Mortgagor shall give Lender Notice of any default under any Lien and Notice of any foreclosure or threat of foreclosure with respect to any of the Property.



Section 5.2 Transfer of the Property.

Mortgagor will not Transfer, or contract to Transfer, all or any part of the Property or any legal or beneficial interest therein (except for certain Transfers of the Accessories expressly permitted in this Mortgage). The Transfer of any ownership interest in Mortgagor, (whether in one or more transactions during the term of the Loan) shall be deemed to be a prohibited Transfer of the Property.

Section 5.3 Removal, Demolition or Alteration of Accessories and Improvements.

Except to the extent permitted by the following sentence, no Improvements or Accessories shall be removed, demolished or materially altered without the prior written consent of Lender. Mortgagor may remove and dispose of, free from the Lien of this Mortgage, such Accessories as from time to time become worn out or obsolete, provided that, either (a) at the time of, or prior to, such removal, any such Accessories are replaced with other Accessories which are free from Liens other than Permitted Encumbrances and have a value at least equal to that of the replaced Accessories (and by such removal and replacement Mortgagor shall be deemed to have subjected such Accessories to the Lien of this Mortgage), or (b) so long as a prepayment may be made without the imposition of any premium pursuant to the Note, such Accessories are sold at fair market value for cash and the net cash proceeds received from such disposition are paid over promptly to Lender to be applied to the prepayment of the principal of the Loan.

Section 5.4 Additional Improvements.

Mortgagor will not construct any Improvements other than those presently on the Land and those described in the Loan Agreement without the prior written consent of Lender. Mortgagor will complete and pay for, within a reasonable time, any Improvements which Mortgagor is permitted to construct on the Land. Mortgagor will construct and erect any permitted Improvements (a) strictly in accordance with all applicable laws and any private restrictive covenants, (b) entirely on lots or parcels of the Land, (c) so as not to encroach upon any easement or right of way or upon the land of others, and (d) wholly within any building restriction and setback lines applicable to the Land.

Section 5.5 Restrictive Covenants, Zoning, etc.

Without the prior written consent of Lender, Mortgagor will not initiate, join in, or consent to any change in, any restrictive covenant, easement, zoning ordinance, or other public or private restrictions limiting or defining the uses which may be made of the Property. Mortgagor (a) will promptly perform and observe, and cause to be performed and observed, all of the terms and conditions of all agreements affecting the Property, and (b) will do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of, or constituting any portion of, the Property.

Article VI  
Events of Default.

The occurrence or happening, from time to time, of a Default (which include the failure by Mortgagor to perform any covenant, condition or agreement contained in this Mortgage); or an Event of Default under the Loan Agreement shall constitute a Default under this Mortgage.

Article VII  
Rights and Remedies.

Upon the happening of any Default, Lender shall have the right, in addition to any other rights or remedies available to Lender under any of the Loan Documents or applicable law, to exercise any one or more of the following rights, powers or remedies:

Section 7.1 Acceleration.

Lender may accelerate all Obligations under the Loan Documents whereupon such Obligations shall become immediately due and payable, without notice of default, notice of acceleration or intention to accelerate, presentment or demand for payment, protest, notice of protest, notice of nonpayment or dishonor, or notices or demands of any kind or character (all of which are hereby waived by Mortgagor).

Section 7.2 Foreclosure; Power of Sale.

Upon the occurrence of an Event of Default, Lender may, with or without first taking possession of the Property, sell the Property at public outcry to the highest bidder for cash at the appropriate courthouse door considered the front or main door to the courthouse in the county where the Real Property or a substantial and material part thereof, is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in a newspaper of general circulation in the county or counties in which the Property is located. Upon payment of the purchase money, Lender or any person conducting the sale for Lender is authorized to execute to the purchaser at said sale a deed to the property so purchased. Lender may bid at said sale and purchase said property or any part thereof if it is the highest bidder therefor and shall be entitled to apply all or any part of the Obligations as a credit to the purchase price. The aforesaid power of sale and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative of the other remedies provided hereby or by law for the collection of the Obligations. Any sale made by Lender hereunder may be as an entirety or in such parcels as Lender may decide in its sole discretion. To the extent permitted by applicable law, any sale may be adjourned by announcement at the time and place appointed for such sale without further notice except as may be required by law. The sale by Lender of less than the whole of the Property shall not exhaust the power of sale herein granted, and Lender is specifically empowered to make successive sale or sales under such power until the whole of the Property shall be sold; and, if the proceeds of such sale of less than the whole of the Property shall be less than the aggregate of the indebtedness secured hereby, this Mortgage and the lien hereof shall remain in full force and effect as to the unsold portion of the Property just as though no sale had been made; provided, however, that Grantor shall never have any right to



require the sale of less than the whole of the Property but Lender shall have the right, at its sole election, to sell less than the whole of the Property. Lender may sell not only the Real Property but also the Personalty and other interests which are a part of the Property, or any part thereof, as a unit and as a part of a single sale or may sell any part of the Property separately from the remainder of the Property. It shall not be necessary for Lender to have taken possession of any part of the Property or to have present or to exhibit at any sale any of the Personalty. The power of sale granted herein shall not be exhausted by any sale held hereunder by Lender, and such power of sale may be exercised from time to time and as many times as Lender may deem necessary until all of the Property has been duly sold and all secured indebtedness has been fully paid. In the event any sale hereunder is not completed or is defective in the opinion of Lender, such sale shall not exhaust the power of sale hereunder and Lender shall have the right to cause a subsequent sale or sales to be made hereunder. Any and all statements of fact or other recitals made in any deed or deeds or other conveyances given by Lender or any successor or substitute appointed hereunder as to nonpayment of the secured indebtedness or as to the occurrence of any Default, or as to Lender's having declared all of said indebtedness to be due and payable, or as to the request to sell, or as to notice of time, place and terms of sale and the properties to be sold having been duly given, or as to the refusal, failure or inability to act of Lender, or as to any other act or thing having been duly done by Lender, shall be taken as prima facie evidence of the truth of the facts so stated and recited. It is agreed that Lender, in the event of any sale of the Property, may bid and buy as any third person might, but Lender shall not be required to present cash at the sale except to the extent, if any, by which Lender's bid exceeds the amount of the secured indebtedness, including all expenses of collection and sale provided for herein. Lender may delegate, in its sole discretion, any authority possessed under this Mortgage, including the authority to conduct a foreclosure sale. Without limiting the foregoing, Lender may retain a professional auctioneer to preside over the bidding, and the customary charge for the auctioneer's services shall be paid from sale proceeds as an expense of sale. If prior to or at any foreclosure sale a third party represents to the Lender in writing that such party holds the next junior lien to this Mortgage (whether by judgment lien, junior mortgage, or otherwise), the Lender may disburse surplus proceeds to such third party in an amount not to exceed the amount of lien alleged by the third party in its written statement to the Lender. A foreclosure sale may be adjourned by Lender and may be reset at a later time and/or date by announcement at the time and place of the originally advertised sale and without any further publication. The foreclosure sale of the Property shall be conducted for cash to be tendered upon the conclusion of the bidding; provided, however, (i) Lender may accept a check issued or certified by a local bank as consideration for the sale, and (ii) if, in his sole discretion, Lender announces before or after bidding that, upon the failure of the high bidder to complete the sale for cash within one (1) hour, the Property may be sold to the second highest bidder, and if the high bidder should subsequently fail to complete the purchase within that time, then Lender may, at his option, close the sale of the Property to the second highest bidder. Lender may, after Default, advise third parties of the amount (or estimated amount) of principal, interest and expenses that will be outstanding as of the date of any foreclosure sale and may share any other available information regarding the Property. Following the occurrence of a Default hereunder, any "release" provision included herein or in any other document whereby Lender agreed to release all or part of the Property upon the payment of less than all of the Obligations shall become void and Lender shall no longer be obligated to release any of the Property until the secured indebtedness has been paid in full. Mortgagor agrees that Mortgagor will not bid at any sale hereunder and will

not allow others to bid on Mortgagor's behalf unless, at the time of sale, Mortgagor has cash sufficient to pay at the sale the amount of his bid.

Section 7.3 Judicial Action.

Lender shall have the right from time to time to sue Mortgagor for any sums (whether interest, damages for failure to pay principal or any installments thereof, taxes, or any other sums required to be paid under the terms of this Mortgage, as the same become due), without regard to whether or not any of the other Obligations shall be due, and without prejudice to the right of Lender thereafter to enforce any appropriate remedy against Mortgagor, including an action of foreclosure or an action for specific performance, for a Default or Default existing at the time such earlier action was commenced.

Section 7.4 Collection of Rents.

Upon the occurrence of a Default, the license granted to Mortgagor to collect the Rents shall be automatically and immediately revoked, without further notice to or demand upon Mortgagor. Lender may, but shall not be obligated to, perform any or all obligations of the landlord under any or all of the Leases, and Lender may, but shall not be obligated to, exercise and enforce any or all of Mortgagor's rights under the Leases. Without limitation to the generality of the foregoing, Lender may notify the tenants under the Leases that all Rents are to be paid to Lender, and following such notice all Rents shall be paid directly to Lender and not to Mortgagor or any other Person other than as directed by Lender, it being understood that a demand by Lender on any tenant under the Leases for the payment of Rent shall be sufficient to warrant payment by such tenant of Rent to Lender without the necessity of further consent by Mortgagor. Mortgagor hereby irrevocably authorizes and directs the tenants under the Lease to pay all Rents to Lender instead of to Mortgagor, upon receipt of written notice from Lender, without the necessity of any inquiry of Mortgagor and without the necessity of determining the existence or non-existence of a Default. Mortgagor hereby appoints Lender as Mortgagor's attorney-in-fact with full power of substitution, which appointment shall take effect upon the occurrence of a Default and is coupled with an interest and is irrevocable prior to the full and final payment and performance of the Obligations, in Mortgagor's name or in Lender's name: (a) to endorse all checks and other instruments received in payment of Rents and to deposit the same in any account selected by Lender; (b) to give receipts and releases in relation thereto; (c) to institute, prosecute and/or settle actions for the recovery of Rents; (d) to modify the terms of any Leases including terms relating to the Rents payable thereunder; (e) to cancel any Leases; (f) to enter into new Leases; and (g) to do all other acts and things with respect to the Leases and Rents which Lender may deem necessary or desirable to protect the security for the Obligations. Any Rents received shall be applied first to pay all Expenses and next in reduction of the other Obligations. Mortgagor shall pay, on demand, to Lender, the amount of any deficiency between (i) the Rents received by Lender, and (ii) all Expenses incurred together with interest thereon as provided in the Loan Agreement and the other Loan Documents.

Section 7.5 Taking Possession or Control of the Property.

As a matter of right without regard to the adequacy of the security, and to the extent permitted by law without notice to Mortgagor, Lender shall be entitled, upon application to a court



of competent jurisdiction, to the immediate appointment of a receiver for all or any part of the Property and the Rents, whether such receivership may be incidental to a proposed sale of the Property or otherwise, and Mortgagor hereby consents to the appointment of such a receiver and agrees that such receiver shall have all of the rights and powers granted to Lender pursuant to Section 7.4. In addition, to the extent permitted by law, and with or without the appointment of a receiver, or an application therefor, Lender may (a) enter upon, and take possession of (and Mortgagor shall surrender actual possession of), the Property or any part thereof, without notice to Mortgagor and without bringing any legal action or proceeding, or, if necessary by force, legal proceedings, ejectment or otherwise, and (b) remove and exclude Mortgagor and its agents and employees therefrom.

Section 7.6 Management of the Property.

Upon obtaining possession of the Property or upon the appointment of a receiver as described in Section 7.4, Lender or the receiver, as the case may be, may, at its sole option, (a) make all necessary or proper repairs and Additions to or upon the Property, (b) operate, maintain, control, make secure and preserve the Property, and (c) complete the construction of any unfinished Improvements on the Property and, in connection therewith, continue any and all outstanding contracts for the erection and completion of such Improvements and make and enter into any further contracts which may be necessary, either in their or its own name or in the name of Mortgagor (the costs of completing such Improvements shall be Expenses secured by this Mortgage and shall accrue interest as provided in the Loan Agreement and the other Loan Documents). Lender or such receiver shall be under no liability for, or by reason of, any such taking of possession, entry, holding, removal, maintaining, operation or management, except for gross negligence or willful misconduct. The exercise of the remedies provided in this Section shall not cure or waive any Default, and the enforcement of such remedies, once commenced, shall continue for so long as Lender shall elect, notwithstanding the fact that the exercise of such remedies may have, for a time, cured the original Default.

Section 7.7 Uniform Commercial Code.

Lender may proceed under the Uniform Commercial Code as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. Upon the occurrence of any Default, Mortgagor shall assemble all of the Accessories and make the same available within the Improvements. Any notification required by the Uniform Commercial Code shall be deemed reasonably and properly given if sent in accordance with the Notice provisions of this Mortgage at least ten (10) days before any sale or other disposition of the Personalty. Disposition of the Personalty shall be deemed commercially reasonable if made pursuant to a public sale advertised at least twice in a newspaper of general circulation in the community where the Property is located. It shall be deemed commercially reasonable for Lender to dispose of the Personalty without giving any warranties as to the Personalty and specifically disclaiming all disposition warranties.

Section 7.8 Application of Proceeds.

Unless otherwise provided by applicable law, all proceeds from the sale of the Property or any part thereof pursuant to the rights and remedies set forth in this Article VII and any other

proceeds received by Lender from the exercise of any of its other rights and remedies hereunder or under the other Loan Documents shall be applied first to pay all Expenses and next in reduction of the other Obligations, in such manner and order as Lender may elect.

Section 7.9 Other Remedies.

Lender shall have the right from time to time to protect, exercise and enforce any legal or equitable remedy against Mortgagor provided under the Loan Documents or by applicable laws.

Article VIII  
Miscellaneous.

Section 8.1 Rights, Powers and Remedies Cumulative.

Each right, power and remedy of Lender as provided for in this Mortgage, or in any of the other Loan Documents or now or hereafter existing by law, shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage, or in any of the other Loan Documents or now or hereafter existing by law, and the exercise or beginning of the exercise by Lender of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by Lender of any or all such other rights, powers or remedies.

Section 8.2 No Waiver by Lender.

No course of dealing or conduct by or among Lender and Mortgagor shall be effective to amend, modify or change any provisions of this Mortgage or the other Loan Documents. No failure or delay by Lender to insist upon the strict performance of any term, covenant or agreement of this Mortgage or of any of the other Loan Documents, or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, covenant or agreement or of any such breach, or preclude Lender from exercising any such right, power or remedy at any later time or times. By accepting payment after the due date of any of the Obligations, Lender shall not be deemed to waive the right either to require prompt payment when due of all other Obligations, or to declare a Default for failure to make prompt payment of any such other Obligations. Neither Mortgagor nor any other Person now or hereafter obligated for the payment of the whole or any part of the Obligations shall be relieved of such liability by reason of (a) the failure of Lender to comply with any request of Mortgagor or of any other Person to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage, or (b) any agreement or stipulation between any subsequent owner or owners of the Property and Lender, or (c) Lender's extending the time of payment or modifying the terms of this Mortgage or any of the other Loan Documents without first having obtained the consent of Mortgagor or such other Person. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate Lien on the Property, Lender may release any Person at any time liable for any of the Obligations or any part of the security for the Obligations and may extend the time of payment or otherwise modify the terms of this Mortgage or any of the other Loan Documents without in any way impairing or affecting the Lien of this Mortgage or the priority of this Mortgage over any subordinate Lien. The holder of any subordinate Lien shall have no right to terminate any Lease regardless of whether or not such Lease is subordinate to this Mortgage.



Lender may resort to the security or collateral described in this Mortgage or any of the other Loan Documents in such order and manner as Lender may elect in its sole discretion.

Section 8.3 Waivers and Agreements Regarding Remedies.

To the full extent Mortgagor may do so, Mortgagor hereby:

(a) agrees that it will not at any time plead, claim or take advantage of any laws now or hereafter in force providing for any appraisal, valuation, stay, extension or redemption, and waives and releases all rights of redemption (including statutory and equitable rights of redemption), valuation, appraisal, stay of execution, extension and notice of election to accelerate the Obligations;

(b) waives all rights to a marshalling of the assets of Mortgagor, including the Property, or to a sale in the inverse order of alienation in the event of a foreclosure of the Property, and agrees not to assert any right under any law pertaining to the marshalling of assets, the sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatsoever to defeat, reduce or affect the right of Lender under the terms of this Mortgage to a sale of the Property without any prior or different resort for collection, or the right of Lender to the payment of the Obligations out of the proceeds of sale of the Property in preference to every other claimant whatsoever;

(c) waives any right to bring or utilize any defense, counterclaim or setoff, other than one which denies the existence or sufficiency of the facts upon which any foreclosure action is grounded. If any defense, counterclaim or setoff, other than one permitted by the preceding clause, is timely raised in a foreclosure action, such defense, counterclaim or setoff shall be dismissed. If such defense, counterclaim or setoff is based on a Claim which could be tried in an action for money damages, such Claim may be brought in a separate action which shall not thereafter be consolidated with the foreclosure action. The bringing of such separate action for money damages shall not be deemed to afford any grounds for staying the foreclosure action; and

(d) waives and relinquishes any and all rights and remedies which Mortgagor may have or be able to assert by reason of the provisions of any laws pertaining to the rights and remedies of sureties.

Section 8.4 Successors and Assigns.

All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the Land and shall apply to and bind the successors and assigns of Mortgagor (including any permitted subsequent owner of the Property), and inure to the benefit of Lender, its successors and assigns.

Section 8.5 No Warranty by Lender.

By inspecting the Property or by accepting or approving anything required to be observed, performed or fulfilled by Mortgagor or to be given to Lender pursuant to this Mortgage or any of the other Loan Documents, Lender shall not be deemed to have warranted or represented the

condition, sufficiency, legality, effectiveness or legal effect of the same, and such acceptance or approval shall not constitute any warranty or representation with respect thereto by Lender.

Section 8.6 Amendments.

This Mortgage may not be modified or amended except by an agreement in writing, signed by the party against whom enforcement of the change is sought.

Section 8.7 Severability.

In the event any one or more of the provisions of this Mortgage or any of the other Loan Documents shall for any reason be held to be invalid, illegal or unenforceable, in whole or in part or in any other respect, or in the event any one or more of the provisions of the Loan Documents operates or would prospectively operate to invalidate this Mortgage or any of the other Loan Documents, then and in either of those events, at the option of Lender, such provision or provisions only shall be deemed null and void and shall not affect the validity of the remaining Obligations, and the remaining provisions of the Loan Documents shall remain operative and in full force and effect and shall in no way be affected, prejudiced or disturbed thereby.

Section 8.8 Notices.

All Notices required or which any party desires to give hereunder or under any other Loan Document shall be in writing and, unless otherwise specifically provided in such other Loan Document or otherwise required by applicable law, shall be deemed sufficiently given or furnished if given in accordance with the provisions of the Loan Agreement.

Section 8.9 Joint and Several Liability.

If Mortgagor consists of two (2) or more Persons, the term "Mortgagor" shall also refer to all Persons signing this Mortgage as Mortgagor, and to each of them, and all of them are jointly and severally bound, obligated and liable hereunder. Lender may release, compromise, modify or settle with any of Mortgagor, in whole or in part, without impairing, lessening or affecting the obligations and liabilities of the others of Mortgagor hereunder or under the Note. Any of the acts mentioned aforesaid may be done without the approval or consent of, or notice to, any of Mortgagor.

Section 8.10 Rules of Construction.

The words "hereof", "herein", "hereunder", "hereto", and other words of similar import refer to this Mortgage in its entirety. The terms "agree" and "agreements" mean and include "covenant" and "covenants". The words "include" and "including" shall be interpreted as if followed by the words "without limitation". The headings of this Mortgage are for convenience of reference only and shall not be considered a part hereof and are not in any way intended to define, limit or enlarge the terms hereof. All references (a) made in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, (b) made in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, (c) to the Loan Documents are to the same as extended, amended, restated, supplemented or otherwise modified from time to time unless expressly indicated otherwise, (d) to the Land,



Improvements, Personalty, Real Property or Property shall mean all or any portion of each of the foregoing, respectively, and (e) to Articles or Sections are to the respective Articles or Sections contained in this Mortgage unless expressly indicated otherwise. Any term used or defined in the Uniform Commercial Code of the State, as in effect from time to time, which is not defined in this Mortgage shall have the meaning ascribed to that term in the Uniform Commercial Code of the State. If a term is defined in Article 9 of the Uniform Commercial Code of the State differently than in another Article of the Uniform Commercial Code of the State, the term shall have the meaning specified in Article 9.

Section 8.11 Governing Law.

This Mortgage shall be construed, governed and enforced in accordance with the laws in effect from time to time in the State of Alabama.

Section 8.12 Entire Agreement.

The Loan Documents constitute the entire understanding and agreement between Mortgagor and Lender with respect to the transactions arising in connection with the Loan and supersede all prior written or oral understandings and agreements between Mortgagor and Lender with respect to the matters addressed in the Loan Documents. In particular, and without limitation, the terms of any commitment by Lender to make the Loan are merged into the Loan Documents. Except as incorporated in writing into the Loan Documents, there are no representations, understandings, stipulations, agreements or promises, oral or written, with respect to the matters addressed in the Loan Documents.


*(Remainder of Page Intentionally Left Blank)*

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

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

MORTGAGOR:

CJA PARTNERS, LLC,  
a New Jersey limited liability company

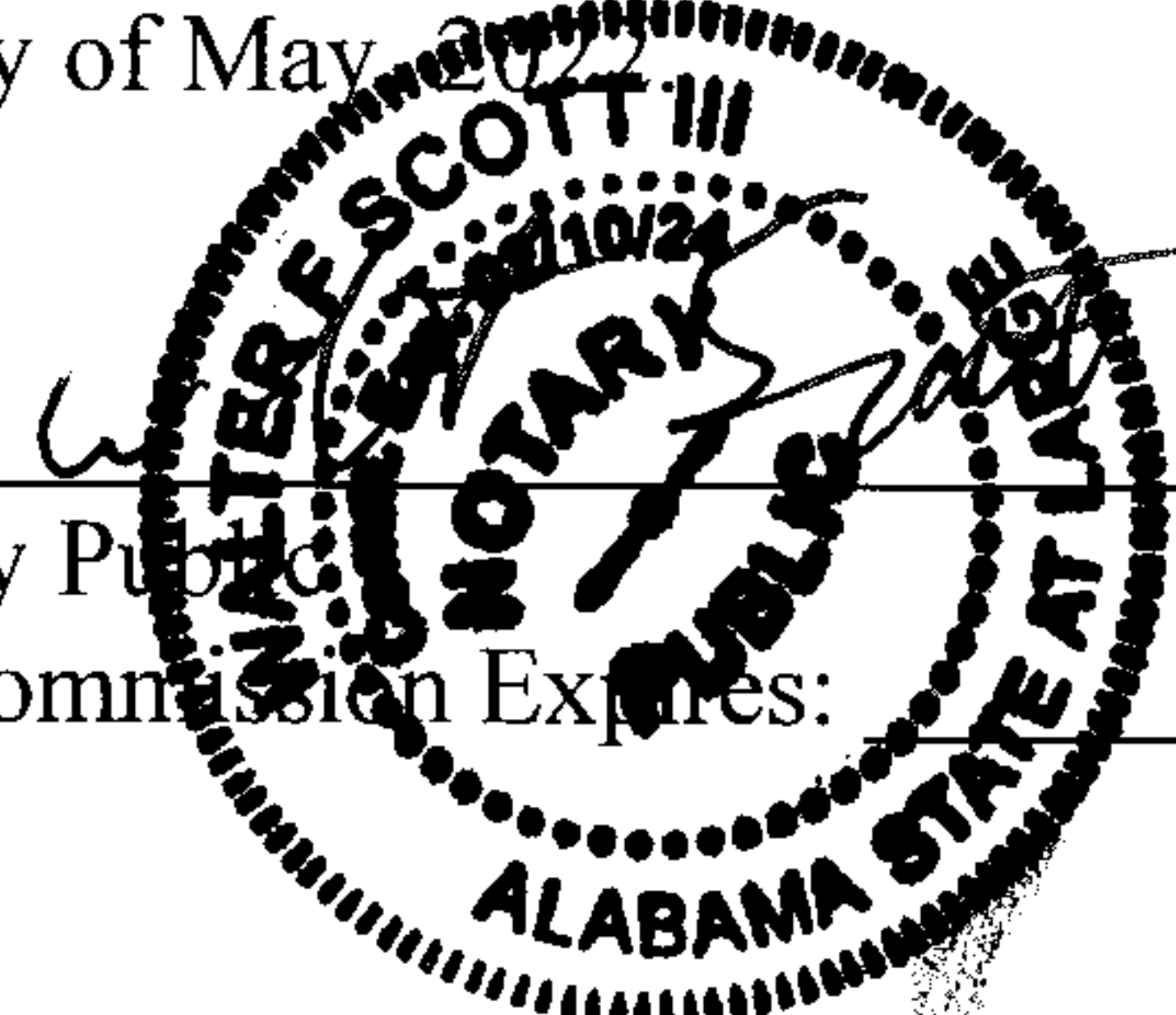
By:   
Dr. Susan R. Nelms  
Title: Manager

STATE OF ALABAMA     )  
                                     :  
JEFFERSON COUNTY     )

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that Dr. Susan R. Nelms, whose name as Manager of CJA PARTNERS, LLC, a New Jersey limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me that, being informed of the contents of the instrument, she, as such manager and with full authority, executed the same voluntarily as and for the act of said limited liability company.

Given under my hand and seal of Office this 3<sup>rd</sup> day of May, 2022

Notary Public  
My Commission Expires: 10/24/2024





20220504000182470 05/04/2022 10:35:34 AM MORT 23/23

Exhibit A

Legal Description

Lot 1, according to the final plat of Riverwoods Commercial, as recorded in Map Book 38, Page 131, in the Probate Office of Shelby County, Alabama.



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
05/04/2022 10:35:34 AM  
\$838.00 CHERRY  
20220504000182470

*Allen S. Bayl*