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**THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:**

Vontive, Inc.  
500 Sansome Street, Suite 615  
San Francisco, CA 94111  
Attention: **Servicing Department**

**THIS MORTGAGE IS FILED AS AND SHALL CONSTITUTE A FIXTURE FILING IN ACCORDANCE  
WITH THE PROVISIONS OF SECTION 7-9A-102(a)(40) AND SECTION 7-9A-502 OF THE UNIFORM  
COMMERCIAL CODE OF ALABAMA.**

**STATE OF ALABAMA                    )**  
**)**  
**COUNTY OF Shelby                )**

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

This Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (hereinafter called "**Mortgage**") is made as of the **09** day of **January, 2023**, by **JE Homes LLC**, an **Alabama Limited Liability Company**, whose mailing address is **2251 Highland Ave S Apt 803, Birmingham, AL 35205**, hereinafter called "**Mortgagor**," in favor of **Vontive, Inc.**, a Delaware corporation, whose address is **500 Sansome Street, Suite 615 San Francisco, CA 94111**, together with its successors and assigns, is hereinafter called "**Mortgagee**".

**WITNESSETH:**

**Section 1.      GRANTING CLAUSE; WARRANTY OF TITLE**

1.1      Mortgagor hereby irrevocably grants, transfers, and assigns to Mortgagee, with power of sale, for the benefit of Mortgagee and its successors and assigns, the following (collectively, the "**Mortgaged Property**"): (i) all of Mortgagor's present and future estate, right, title and interest in and to that real property and all buildings, structures and other improvements now thereon or hereafter constructed thereon (collectively, the "**Premises**"), in the County of **Shelby**, State of Alabama, described on **Exhibit "A"** attached hereto and by this reference made

1059 Thompson Road, Alabaster, AL 35007  
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Alabama Security Instrument / 1 of 25

a part hereof, together with (ii) all of Mortgagor's present and future estate, right, title and interest in and to all of the items described in clauses (a) through (g) below:

- (a) All appurtenances in and to the Premises;
- (b) All water and water rights, ditches and ditch rights, reservoir and reservoir rights, stock or interests in irrigation or ditch companies, minerals, oil and gas rights, royalties, lease or leasehold interests owned by Mortgagor, now or hereafter used or useful in connection with, appurtenant to or related to the Premises;
- (c) All right, title and interest of Mortgagor now owned or hereafter acquired in and to all streets, roads, alleys and public places, and all easements and rights of way, public or private, now or hereafter used in connection with the Premises;
- (d) All machinery, equipment, fixtures and materials now or at any time attached to or located on the Premises together with all processing, manufacturing and service equipment and other personal property now or at any time hereafter located on, attached to or appurtenant to the Premises and used in connection with the management, ownership, maintenance and operation thereof;
- (e) Any licenses, contracts, permits and agreements required or used in connection with the ownership, operation or maintenance of the Premises, and the right to the use of any tradename, trademark, or service mark now or hereafter associated with the operation of any business conducted on the Premises;
- (f) Any and all insurance proceeds, and any and all awards, including interest, hereafter made to Mortgagor for taking by eminent domain of the whole or any part of the Premises or any easements therein; and
- (g) Subject to the rights of Mortgagee under Section 3 hereof, all existing and future leases, subleases, licenses and other agreements for the use and occupancy of all or any portion of the Premises and all income, receipts, revenues, rents, issues and profits arising from the use or enjoyment of all or any portion of the Premises.

1.2 Mortgagor warrants that it is well and truly seized of a good and marketable title in fee simple to the Premises, that it is the lawful owner of the rest of the Mortgaged Property, and that, except for those matters expressly approved by Mortgagee (hereinafter collectively called the "**Permitted Exceptions**"), title to all the Mortgaged Property is clear, free and unencumbered; Mortgagor shall forever warrant and defend the same unto Mortgagee, its successors and assigns, against all claims whatsoever, other than the Permitted Exceptions.

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

## **Section 2. OBLIGATION SECURED**

This Mortgage is given for the purpose of securing, in such order of priority as Mortgagee may elect:

2.1 Payment of the principal sum of **One hundred twenty thousand and 00/100 Dollars \$120,000.00** (hereinafter referred to as the "**Loan**") to be advanced pursuant to the terms of the promissory note of approximately even date herewith between Mortgagor and Mortgagee (the "**Loan Agreement**"), and evidenced by a Promissory Note of approximately even date herewith in the principal amount of **\$120,000.00** from Mortgagor, as maker, payable to the order of Mortgagee (the "**Note**"), all as may be amended, modified, extended, substituted, and/or supplemented from time to time, plus interest accrued thereon and any extension and other fees, late charges and/or attorneys' fees owed to Mortgagee pursuant to the terms of the Note, any Loan Agreement, this Mortgage and/or any of the other loan documents and instruments related thereto (collectively, the "**Loan Documents**"). The Note bears interest at certain variable and fixed rates in accordance with the terms and provisions thereof and in the Loan Agreement which are by this reference incorporated herein;

2.2 Payment, performance and observance by Mortgagor of each covenant, condition, provision and agreement contained herein and of all monies expended or advanced by Mortgagee pursuant to the terms hereof to cure any non-performance of Mortgagor hereunder or to preserve any right of Mortgagee hereunder or protect or preserve the Mortgaged Property or any part thereof; and

2.3 Payment, performance and observance by Mortgagor of each covenant, condition, provision and agreement contained in any other document or instrument to which Mortgagor is a party and evidencing, securing or governing the indebtedness hereby secured and of all monies expended or advanced by Mortgagee pursuant to the terms thereof to cure any non-performance thereunder or preserve any right of Mortgagee thereunder.

All of the indebtedness and obligations secured by this Mortgage, together with any additional or subsequent advances made by Mortgagee to protect its interests under the Loan and its interests, rights or its security in the Mortgaged Premises and any related Collateral, are hereinafter collectively called the "**Secured Obligations**."

## **Section 3. LEASES; ASSIGNMENT OF RENTS AND LEASES**

3.1 To facilitate payment and performance of the Secured Obligations, Mortgagor hereby absolutely transfers and assigns to Mortgagee all right, title and interest of Mortgagor in and to (i) all existing and future leases, subleases, licenses and other agreements for the use and occupancy of all or any part of the Mortgaged Property, whether written or oral and whether for a definite term or month to month, together with all guarantees of the lessee's obligations thereunder and together with all extensions, modifications and renewals thereof (hereinafter collectively called the "**Leases**"), and (ii) all income, receipts, revenues, rents, issues and profits now or hereafter arising from or out of the Leases or from or out of the Mortgaged Property or



any part thereof, including without limitation room rents, minimum rents, additional rents, percentage rents, occupancy and user fees and charges, license fees, parking and maintenance charges and fees, tax and insurance contributions, proceeds of the sale of utilities and services, cancellation premiums, claims for damages arising from any breach of the Leases, proceeds from any sale or other disposition of all or any portion of the Mortgaged Property, and all other benefits arising from the use or enjoyment of, or the lease, sale or other disposition of, all or any portion of the Mortgaged Property, together with the immediate and continuing right to receive all of the foregoing (hereinafter called the “**Rents**”). In furtherance of this assignment, and not in lieu hereof, Mortgagee may require a separate assignment of rents and leases and/or separate specific assignments of rents and leases covering one or more of the Leases; the terms of all such assignments are incorporated herein by reference.

3.2 Mortgagor hereby authorizes and directs the lessees and tenants under the Leases that, upon written notice from Mortgagee following the occurrence and during the continuance of an Event of Default (as defined in Paragraph 8.1 below), all Rents shall be paid directly to Mortgagee as they become due. Mortgagor hereby relieves the lessees and tenants from any liability to Mortgagor by reason of the payment of the Rents to Mortgagee after written notice from Mortgagee directing such payment. Nevertheless, Mortgagor shall be entitled to collect the Rents until Mortgagee notifies the lessees and tenants in writing to pay the Rents to Mortgagee. Mortgagee is hereby authorized to give such notification upon the occurrence of an Event of Default and at any time thereafter while such Event of Default is continuing. Receipt and application of the Rents by Mortgagee shall not constitute a waiver of any right of Mortgagee under this Mortgage or applicable law, shall not cure any Event of Default hereunder, and shall not invalidate or affect any act done in connection with such Event of Default, including, without limitation, any sale or foreclosure proceeding.

3.3 All Rents collected by Mortgagor shall be applied in the following manner:

First, to the payment of all taxes and lien assessments levied against the Mortgaged Property then due and payable, where provision for paying such is not otherwise made;

Second, to the payment of ground rents (if any) then due and payable with respect to the Mortgaged Property;

Third, to the payment of any amounts then due and owing under the Secured Obligations;

Fourth, to the payment of current operating costs and expenses (including repairs and maintenance and any necessary acquisitions of property and expenditures for capital improvements then anticipated by Mortgagor) arising in connection with the Mortgaged Property;

Fifth, to Mortgagor or its designee.

All Rents collected by Mortgagee may be applied to the items above listed in any manner that Mortgagee deems advisable and without regard to the above-stated priorities.

3.4 Mortgagor represents and warrants that as of the date hereof: (i) the Leases, if any as of the date of this Mortgage, are in full force and effect and have not been modified or amended, except as has been disclosed to Mortgagee prior to the date of this Mortgage; (ii) the Rents have not been waived, discounted, compromised, setoff or paid more than one month in advance; (iii) there are no other assignments, transfers, pledges or encumbrances of any Leases or Rents, other than Permitted Exceptions; and (iv) neither Mortgagor, nor to Mortgagor's knowledge the lessees and tenants, are in default under the Leases.

3.5 Mortgagor shall (i) fulfill or perform in all material respects each and every term, covenant and provision of the Leases to be fulfilled or performed by the lessor thereunder; (ii) give prompt notice to Mortgagee of any notice received by Mortgagor of default thereunder or of any alleged default or failure of performance that could become a default thereunder, together with a complete copy of any such notice; and (iii) enforce, short of termination thereof, in all material respects the performance or observance of each and every term, covenant and provision of each Lease to be performed or observed by the lessees and tenants thereunder.

3.6 Mortgagor, without the prior written consent of Mortgagee, shall not: (i) cancel, modify or alter, or accept the surrender of, any Lease; (ii) assign, transfer, pledge or encumber, the whole or any part of the Leases and Rents to anyone other than Mortgagee, except for a Permitted Exception; (iii) accept any Rents more than one month in advance of the accrual thereof; (iv) do or permit anything to be done, the doing of which, or omit or refrain from doing anything, the omission of which, reasonably could be a breach or default under the terms of any Lease or a basis for termination thereof; or (v) enter in to any new tenant leases. Notwithstanding the foregoing, Mortgagee's prior written consent shall not be required for any amendment or modification to any Lease that does not materially increase Mortgagor's obligations or materially decrease the applicable tenant's obligations (including, without limitation, monetary obligations), thereunder.

3.7 Mortgagee does not assume and shall not be liable for any obligation of the lessor under any of the Leases and all such obligations shall continue to rest upon Mortgagor as though this assignment had not been made unless Mortgagee enforces its Lien thereon and becomes the lessor thereunder, in which case Mortgagee's obligations thereunder shall be limited in accordance with any agreements between Mortgagee and the tenants under such Leases. Mortgagee shall not be liable for the failure or inability to collect any Rents.

3.8 Neither the Assignment of Rents and Leases contained herein or in any separate assignment nor the exercise by Mortgagee of any of its rights or remedies thereunder or in connection therewith, prior to Mortgagee obtaining actual possession of the Mortgaged Property as provided in Paragraph 8.2 hereof, shall constitute Mortgagee a "mortgagee in possession" or otherwise make Mortgagee responsible or liable in any manner with respect to the Mortgaged Property or the occupancy, operation or use thereof, except for gross negligence or willful



misconduct of Mortgagee or any of its affiliates or designees. In the event Mortgagee obtains actual possession of the Mortgaged Property as provided in Paragraph 8.2 hereof, Mortgagee shall have the rights, and Mortgagee's liability shall be limited, as provided in that Paragraph.

#### **Section 4. SECURITY AGREEMENT**

4.1 This Mortgage shall cover, and the Mortgaged Property shall include, all of Mortgagor's present and future estate, right, title and interest in and to all property now or hereafter affixed or attached to or incorporated upon the Premises, which, to the fullest extent permitted by law, shall be deemed fixtures and a part of the Premises. To the extent any of the Mortgaged Property consists of rights in action or personal property covered by the Uniform Commercial Code, this Mortgage shall also constitute a security agreement, and Mortgagor hereby grants to Mortgagee, as secured party, a security interest in such property and all proceeds thereof, for the purpose of securing the Secured Obligations. In addition, for the purpose of securing the Secured Obligations, Mortgagor hereby grants to Mortgagee, as secured party, a security interest in all of the property described below in, to, or under which Mortgagor now has or hereafter acquires any right, title or interest, whether present, future, or contingent (to the extent of such right, title or interest): all equipment, inventory, accounts, general intangibles, instruments, documents, investment property, deposit accounts, letter-of-credit rights, supporting obligations and chattel paper, as those terms are defined in the Uniform Commercial Code, and all other personal property of any kind (including without limitation money and rights to the payment of money), whether now existing or hereafter created, that are now or at any time hereafter (i) in the possession or control of Mortgagee in any capacity; (ii) erected upon, attached to, or appurtenant to, the Premises; (iii) located or used on the Premises or identified for use on the Premises (whether stored on the Premises or elsewhere); or (iv) used in connection with, arising from, related to, or associated with the Premises or any of the personal property described herein, the construction of any improvements on the Premises, the ownership, development, maintenance, leasing, management, or operation of the Premises, the use or enjoyment of the Premises, or the operation of any business conducted on the Premises; including without limitation all of Mortgagor's present and future estate, right, title and interest in and to all such property more particularly described as follows:

(a) Buildings, structures and improvements located at the Premises, and building materials, fixtures and equipment to be incorporated into any such buildings, structures or improvements;

(b) Goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings located at the Premises, including without limitation, all such items used for (i) generation, storage or transmission of air, water, heat, steam, electricity, light, fuel, refrigeration or sound; (ii) ventilation, air-conditioning, heating, refrigeration, fire prevention and protection, sanitation, drainage, cleaning, transportation, communications, maintenance or recreation; (iii) removal of dust, refuse, garbage or snow; (iv) transmission, storage, processing or retrieval of information; and (v) floor, wall, ceiling and window coverings and decorations;

(c) Income, receipts, revenues, rents, issues and profits from the Premises, including without limitation, room rents, minimum rents, additional rents, percentage rents, occupancy and user fees and charges, license fees, parking and maintenance charges and fees, tax and insurance contributions, proceeds of the sale of utilities and services, cancellation premiums, and claims for damages arising from the breach of any leases;

(d) Water and water rights, ditches and ditch rights, reservoirs and reservoir rights, stock or interest in irrigation or ditch companies, minerals, oil and gas rights, royalties, and lease or leasehold interests relating to the Premises;

(e) Plans and specifications prepared for the construction of any improvements at the Premises, including without limitation, all studies, estimates, data, and drawings;

(f) Documents, instruments and agreements relating to, or in any way connected with, the operation, control or development of the Premises, including without limitation, any declaration of covenants, conditions and restrictions and any articles of incorporation, bylaws and other membership documents of any property owners association or similar group;

(g) Claims and causes of action, legal and equitable, relating to the Premises in any form whether arising in contract or in tort, and awards, payments and proceeds due or to become due, including without limitation those arising on account of any loss of, damage to, taking of, or diminution in value of, all or any part of the Premises or any personal property described herein;

(h) Sales agreements, escrow agreements, deposit receipts, and other documents and agreements for the sale or other disposition of all or any part of the Premises or any of the personal property described herein, and deposits, proceeds and benefits arising from the sale or other disposition of all or any part of the Premises or any of the personal property described herein;

(i) Policies or certificates of insurance, contracts, agreements or rights of indemnification, guaranty or surety relating to the Premises, and awards, loss payments, proceeds, and premium refunds that may be payable with respect to such policies, certificates, contracts, agreements or rights;

(j) Contracts, agreements, permits, licenses, authorizations and certificates relating to the Premises, including without limitation all architectural contracts, construction contracts, management contracts, service contracts, maintenance contracts, franchise agreements, license agreements, building permits and operating licenses relating to the Premises;

(k) Trade names, trademarks, and service marks (subject to any franchise or license agreements relating thereto) relating to the Premises;



(l) Refunds and deposits due or to become due from any utility companies or governmental agencies relating to the Premises;

(m) Replacements and substitutions for, modifications of, and supplements, accessions, addenda and additions to, all of the personal property described herein;

(n) Books, records, correspondence, files and electronic media relating to the Premises, and all information stored therein;

together with all products and proceeds of all of the foregoing, in any form, including all proceeds received, due or to become due from any sale, exchange or other disposition thereof, whether such proceeds are cash or non-cash in nature, and whether represented by checks, drafts, notes or other instruments for the payment of money, but subject to Mortgagor's rights, provided no Event of Default has occurred and is then continuing, to operate the Premises and distribute funds in a manner consistent with the other Loan Documents. The personal property owned by Mortgagor that is described or referred to in this Paragraph 4.1 is hereinafter collectively called the "**Personal Property**." The security interests granted in this Paragraph 4.1 are hereinafter severally and collectively called the "**Security Interest**."

4.2 The Security Interest shall be self-operative with respect to the Personal Property, but Mortgagor shall execute and deliver on demand such additional security agreements, financing statements and other instruments as may be reasonably requested in order to impose the Security Interest more specifically upon the Personal Property. The Security Interest, at all times, shall be prior to any other interests in the Personal Property except any lien or security interest granted in connection with any Permitted Exception. Mortgagor shall act and perform as reasonably necessary and shall execute and file all security agreements, financing statements, continuation statements and other documents reasonably requested by Mortgagee to establish, maintain and continue the perfected Security Interest. Mortgagor, on demand, shall promptly pay all costs and expenses of filing and recording, including the costs of any searches, reasonably deemed necessary by Mortgagee from time to time to establish and determine the validity and the continuing priority of the Security Interest.

4.3 Mortgagor shall not sell, transfer, assign or otherwise dispose of any Personal Property or any interest therein without obtaining the prior written consent of Mortgagee (which consent shall not unreasonably withheld, delayed or conditioned), except Personal Property that Mortgagor is obliged to replace pursuant to the terms hereof and provided, that no such prior written consent of Mortgagee shall be required to the extent any such sale, transfer, assignment or disposal is not prohibited under the Loan Documents. Unless Mortgagee then agrees otherwise in writing, all proceeds from any permitted sale or disposition in excess of that required for replacements shall be paid to Mortgagee to be applied against the Secured Obligations, whether or not then due. Mortgagor shall keep the Personal Property free of all security interests or other encumbrances, except the Security Interest and any security interests and encumbrances granted in connection with any Permitted Exception. Although proceeds of



Personal Property are covered hereby, this shall not be construed to mean that Mortgagee consents to any sale of the Personal Property.

4.4 Mortgagor shall keep and maintain the Personal Property in good condition and repair, ordinary wear and tear excepted, and shall promptly replace any part thereof that from time to time may become obsolete, badly worn or in a state of disrepair. All such replacements shall be free of any other security interest or encumbrance, except any security interest or encumbrance granted in connection with any Permitted Exception.

4.5 Except for purposes of replacement and repair or any other Permitted Transfer of same, Mortgagor, without the prior written consent of Mortgagee, shall not remove, or permit the removal of, any Personal Property from the Premises.

4.6 Mortgagor hereby warrants, covenants and agrees that: (i) the Personal Property is or will be used primarily for business (other than farm) purposes; (ii) the Personal Property will be kept at the Premises, except as otherwise permitted under this Mortgage; and (iii) Mortgagor's records concerning the Personal Property will be kept at Mortgagor's address as set forth in the beginning of this Mortgage.

4.7 Mortgagor represents and warrants that (i) the name specified above for Mortgagor is the true and correct legal name of Mortgagor, and (ii) the address specified above is the address of Mortgagor's chief executive office (or residence if Mortgagor is an individual without an office). Mortgagor shall give Mortgagee immediate written notice of any change in the location of: (i) Mortgagor's chief executive office (or residence if Mortgagor is an individual without an office), as set forth in the beginning of this Mortgage; (ii) unless disposed of as authorized in the Loan Documents, the Personal Property or any part thereof; or (iii) Mortgagor's records concerning the Personal Property. Mortgagor shall give Mortgagee immediate written notice of any change in the name, identity or structure of Mortgagor, other than in the event of a Permitted Transfer.

4.8 All covenants and warranties of Mortgagor contained in this Mortgage shall apply to the Personal Property where reasonably applicable, whether or not expressly referred to in this Section 4. The covenants and warranties of Mortgagor contained in this Section 4 are in addition to, and not in limitation of, those contained in the other provisions of this Mortgage.

4.9 Upon its recording in the real property records, this Mortgage shall be effective as a financing statement filed as a fixture filing. Mortgagor hereby irrevocably authorizes Mortgagee at any time and from time to time to file in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto and any continuation statements containing such information as Mortgagee shall require in order to perfect Mortgagee's security interest in the Personal Property. In addition, a carbon, photographic or other reproduced copy of this Mortgage and/or any financing statement relating hereto shall be sufficient for filing and/or recording as a financing statement. The filing of any other financing

statement relating to any personal property, rights or interests described herein shall not be construed to diminish any right or priority hereunder.

## **Section 5. PROTECTION AND PRESERVATION OF THE MORTGAGED PROPERTY**

5.1 Mortgagor shall neither commit nor permit to occur any material waste upon the Mortgaged Property, and shall at all times make or cause to be made all repairs, maintenance, renewals and replacements as may be necessary to maintain the Mortgaged Property in good condition and repair, ordinary wear and tear excepted. Mortgagor shall keep (or cause to be kept) the Mortgaged Property free of termites, dry rot, fungus, beetles and all other harmful or destructive insects. Mortgagor shall keep (or cause to be kept) the Mortgaged Property free of rubbish and other unsightly or unhealthful conditions. Mortgagor shall neither use nor permit the use of the Mortgaged Property in violation in any material respect of applicable laws, ordinances, rules, and regulations (including without limitation zoning laws, building codes, and the requirements of Title III of the Americans with Disabilities Act of 1990 for accessibility and usability by disabled individuals), any other requirements of regulatory authorities having jurisdiction over the Mortgaged Property, any covenants and restrictions running with the land, any leases and other contracts approved by Mortgagee relating to the Mortgaged Property, or any policy of insurance insuring the Mortgaged Property (collectively, the “**Legal Requirements**”). Mortgagor shall neither use, generate, manufacture, produce, store or Release on, under or about the Premises, or transfer to or from the Premises, any Hazardous Substance in violation in any material respect of Environmental Law nor permit any third party to do so. As used herein, the following terms shall have the meanings specified below:

The terms “**Environmental Law**” and “**Hazardous Substance**” shall have the same meanings as set forth in the Loan Documents, provided, however, that “Hazardous Substance” shall not include any materials either (a) being transported on or from the Mortgaged Property or being stored for use by Mortgagor or its tenant on the Mortgaged Property in connection with Mortgagor’s or its tenant’s current operations or (b) being used by Mortgagor or its tenant on the Mortgaged Property, in either case in such quantities and in a manner that both (i) does not constitute a violation or threatened violation of any Environmental Law and (ii) is consistent with customary business practice for such operations in the state where the Mortgaged Property is located.

The term “**Release**” shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping of any substance into the environment.

5.2 Mortgagor shall promptly complete (or cause to be completed) any improvements that may be commenced and shall repair and restore (or cause to be repaired and restored) any portions of the Mortgaged Property that may be damaged or destroyed, in a good and workmanlike manner according to plans and specifications approved by Mortgagee (if Mortgagor has approval rights under the Leases with respect to plans and specifications), and in



compliance with all Legal Requirements. Mortgagor shall pay (or cause to be paid) when due all claims for work performed and materials furnished on or in connection with the Mortgaged Property or any part thereof and shall pay, discharge, or cause to be removed, all mechanic's, artisan's, laborer's or materialman's charges, liens, claims of liens or encumbrances upon the Mortgaged Property unless the same constitutes a Permitted Exception. Mortgagor shall comply (or cause compliance) with all Legal Requirements in all material respects, including any Legal Requirements that require alterations or improvements to be made to the Mortgaged Property. Except as required by any Legal Requirements, Mortgagor shall not remove, substantially alter, or demolish any building or improvement included in the Mortgaged Property without Mortgagee's prior written consent, provided that Mortgagee's prior written consent shall not be required with respect to alterations or removals for which Mortgagor's consent is not required under the Leases.

5.3 Mortgagor shall provide and maintain (or cause to be maintained) policies of fire and extended coverage insurance on the Mortgaged Property in an amount not less than the full insurable value, on a replacement-cost basis, of the Mortgaged Property and shall also provide and maintain (or cause to be maintained) such additional policies of insurance in amounts required by Mortgagee pursuant to the Loan Agreement. All such policies shall contain standard, non-contributory mortgagee clauses making losses payable to Mortgagee. Mortgagor shall also provide and maintain (or cause to be maintained) comprehensive public liability insurance in amounts reasonably required by Mortgagee as set forth in the Loan Agreement and containing endorsements naming Mortgagee as an additional insured. All insurance policies shall provide that Mortgagee is to receive fifteen (15) days' notice prior to cancellation and shall otherwise be in form and substance reasonably satisfactory to Mortgagee. In the event of any conflict or inconsistency between the terms and provisions of this Paragraph 5.3(a) and the insurance requirements set forth in the Loan Documents, the insurance requirements set forth in the other Loan Documents shall govern and control.

(a) In the event of loss, Mortgagor shall give prompt notice to Mortgagee upon learning of the loss, and Mortgagee may make proof of loss if not made promptly by Mortgagor. Each insurance company is hereby authorized and directed to make payment for loss directly to Mortgagee, instead of to Mortgagor or to Mortgagor and Mortgagee jointly.

(b) If the insurance proceeds are to be used for the restoration and repair of the Mortgaged Property, they shall be held by Mortgagee and disbursed in accordance with the Loan Documents.

5.4 Mortgagor shall pay or cause to be paid all taxes and assessments of every kind, nature and description levied or assessed on or against the Mortgaged Property and shall pay or cause to be paid when due all dues and charges for water and water delivery, electricity, gas, sewers, waste removal, bills for repairs, and any and all other claims, encumbrances and expenses incident to the ownership of the Mortgaged Property. Mortgagor may contest in good faith the validity or amount of any tax, assessment, charge or encumbrance in the manner provided by law, provided that Mortgagor shall have furnished Mortgagee a cash deposit or other



security in an amount and form reasonably satisfactory to Mortgagee to protect Mortgagee against the creation of any lien on, or any sale or forfeiture of, the Mortgaged Property. Upon the final determination of Mortgagor's contest, Mortgagor shall promptly pay or cause to be paid all sums determined to be due. Any deposit or security provided by Mortgagor shall be returned to Mortgagor upon the final determination of Mortgagor's contest and the payment by Mortgagor of the sums, if any, determined to be due.

5.5 Mortgagee may, upon the occurrence and during the continuance of an Event of Default, contest, by appropriate legal proceedings, the validity of any valuation for real or personal property tax purposes or of any levy or assessment of any real or personal property taxes against the Mortgaged Property either in the name of Mortgagee or the name of Mortgagor or both. Mortgagor, upon notice and request by Mortgagee, shall join in any such proceedings. Mortgagor shall cooperate with Mortgagee in any such proceeding and execute any documents or pleadings reasonably required for such purposes. Mortgagor shall reimburse Mortgagee for all reasonable out of pocket costs and legal expenses incurred by Mortgagee in connection with any such proceedings, but in no event shall such reimbursement exceed the tax savings achieved for the period covered by the Notice of Valuation. To facilitate the right of Mortgagee to contest any real or personal property tax valuation, levy, or assessment as described above, Mortgagor does hereby make, constitute and appoint Mortgagee, and its successors and assigns, Mortgagor's true and lawful attorney-in-fact, in Mortgagor's name, place and stead, or otherwise, to file any claim or proceeding or to take any action, either in its own name, in that of its nominee, in the name of Mortgagor, or otherwise, to contest any real or personal property tax valuation, levy, or assessment. The power of attorney given herein is a power coupled with an interest and shall be irrevocable so long as any part of the Secured Obligations remains unpaid or unperformed. Mortgagee shall have no obligation to exercise any of the foregoing rights and powers in any event.

5.6 In order to insure the payment of taxes and assessments that are now, or hereafter may be, a lien upon the Mortgaged Property, and to insure the payment of all premiums on policies of insurance required herein, Mortgagor, if required by Mortgagee after the occurrence and during the continuance of any Event of Default or any failure to pay taxes, assessments or insurance premiums as required herein, shall pay to Mortgagee each month, in addition to any other payments required hereunder, an amount equal to the taxes and special assessments levied or to be levied against the Mortgaged Property and the premium or premiums that will become due and payable to maintain the insurance on the Mortgaged Property, all as reasonably estimated by Mortgagee (giving due consideration to the previous year's taxes, assessments and premiums) less all deposits therefor already made, divided by the number of months remaining before one month prior to the date when the taxes, assessments and premiums become delinquent. If amounts paid to Mortgagee under the terms of this paragraph are insufficient to pay all taxes, assessments and premiums as they become due, Mortgagor shall pay to Mortgagee upon demand all additional sums necessary to fully pay and discharge these items. All moneys paid to Mortgagee under the terms of this paragraph may be either held by Mortgagee to pay the taxes, assessments and premiums before the same become delinquent or applied to the Secured Obligations upon payment by Mortgagee from its own funds of the taxes, assessments and

premiums, provided, however, that, to the extent such taxes, assessments and premiums have been paid by a Tenant, Mortgagee shall not pay such taxes, assessments and premiums and, provided no Event of Default shall exist, shall promptly remit the amounts reserved therefor to Mortgagor. To the extent provision is not made for payment pursuant to this paragraph, Mortgagor shall remain obligated to pay all taxes, assessments and premiums as they become due and payable. Deposits made under this paragraph may be commingled with Mortgagee's general funds; Mortgagee shall have no liability to Mortgagor for interest on any deposits. Notwithstanding the foregoing provisions of this Paragraph 5.6, as long as the tenant under any Lease is obligated to pay such taxes and assessments and maintain insurance and has not defaulted in such obligation beyond any applicable notice and grace periods set forth in such Lease, Mortgagee shall not have the right to require impounds for taxes, assessments or insurance premiums.

5.7 Mortgagor hereby assigns, transfers and conveys to Mortgagee all right, title and interest of Mortgagor in and to all compensation and each and every award of damages in connection with any condemnation for public or private use of, or injury to, the Mortgaged Property or any part thereof, to the extent of the Secured Obligations then remaining unpaid, and all such compensation and awards shall be paid directly to Mortgagee. Mortgagee shall apply all of such compensation and awards in a manner consistent with Paragraph 5.3(b) as if such award or settlement constituted insurance proceeds from a casualty loss.

## **Section 6. PROTECTION AND PRESERVATION OF MORTGAGEE'S INTEREST**

6.1 Mortgagor, by the payment of any and all tax or taxes assessed with respect to the Mortgaged Premises, shall protect Mortgagee against any and all loss from any taxation of indebtedness or mortgages, direct or indirect, that may be imposed upon this Mortgage, the lien of this Mortgage on the Mortgaged Property, or upon the Secured Obligations, by any law, rule, regulation or levy of the federal government, any state government, or any political subdivision thereof. For the avoidance of doubt, the obligations of Mortgagor do not extend to income, franchise or other similar taxes of Mortgagee or its affiliates. In the event the burden of such taxation cannot lawfully be shifted from Mortgagee to Mortgagor, Mortgagee may declare the entire Secured Obligations due and payable thirty (30) days after notice to Mortgagor.

6.2 If Mortgagor shall fail to pay (or cause to be paid) any taxes, assessments, expenses or charges to keep (or cause to be kept) all of the Mortgaged Property free from liens and claims of liens other than Permitted Exceptions, to maintain and repair (or cause to be maintained and repaired) the Mortgaged Property as required herein, or to procure and maintain (or cause to be procured and maintained) insurance thereon as required herein, or otherwise fail to perform as required herein, Mortgagee may advance the monies necessary to pay the same, to accomplish such maintenance and repairs, to procure and maintain such insurance or to so perform; subject to the rights of any tenants under the Leases, Mortgagee is hereby authorized to enter upon the Mortgaged Property for such purposes.



6.3 Upon written request by Mortgagee, Mortgagor shall appear in and prosecute or defend any action or proceeding that may affect the lien or the priority of the lien of this Mortgage or the rights of Mortgagee hereunder and shall pay all reasonable costs, expenses (including the cost of searching title) and reasonable attorneys' fees incurred in such action or proceeding. Mortgagee may appear in and defend any action or proceeding purporting to affect the lien or the priority of the lien of this Mortgage or the rights of Mortgagee. Mortgagee may pay, purchase, contest or compromise any adverse claim, encumbrance, charge or lien that in the judgment of Mortgagee appears to be prior or superior to the lien of this Mortgage, other than any Permitted Exceptions.

6.4 Without obtaining the prior written consent of Mortgagee, Mortgagor shall not sell, transfer, convey, assign or otherwise dispose of, or further encumber, all or any part of the Mortgaged Property or any interest therein, voluntarily or involuntarily, by operation of law or otherwise, provided, however, that no such prior written consent of Mortgagee shall be required to the extent any such transfer, conveyance, assignment, disposal or encumbrance is not prohibited under the Loan Agreement. If Mortgagor is a corporation, limited liability company, partnership, joint venture or trust, any material change in the ownership or management of, or interest in, Mortgagor, or any pledge or encumbrance of any interest in Mortgagor in violation of the Change in Control provisions of the Loan Agreement shall be deemed to be a transfer of the Mortgaged Property. Upon the occurrence of any such transaction with Mortgagee's consent, or without Mortgagee's consent if Mortgagee elects not to exercise its rights and remedies for an Event of Default, Mortgagee (i) may charge a reasonable fee in connection with the change; and (ii) shall not be obligated to release Mortgagor from any liability hereunder or for the Secured Obligations except to the extent required by law. Consent to any such transaction shall not be deemed to be consent or a waiver of the requirement of consent to any other such transaction.

6.5 Mortgagor shall defend, indemnify and hold harmless Mortgagee and any successors to Mortgagee's interest in the Mortgaged Property and all shareholders, directors, officers, employees and agents of all of the foregoing and their heirs, personal representatives, successors and assigns from and against all claims, costs, expenses, actions, suits, proceedings, losses, damages and liabilities of any kind whatsoever, including but not limited to all amounts paid in settlement of, and all costs and expenses (including reasonable attorneys' fees) incurred in defending or settling, any actual or threatened claim, action, suit or proceeding, directly or indirectly arising out of or relating to the Secured Obligations, this Mortgage, or the Mortgaged Property, including but not limited to (i) any violation or claim of violation of any Legal Requirements with respect to the Mortgaged Property; or (ii) any breach of any of the warranties, representations and covenants contained herein; but excluding any claim or liability to the extent it arises as a result of (A) the gross negligence or willful misconduct of Mortgagee or any other indemnified party, (B) matters that first occurred prior to the date of this Mortgage, or (C) matters resulting solely from actions or omissions of Persons other than Mortgagor or any guarantor taken after (x) a judicial or non-judicial foreclosure of the Mortgaged Property, (y) delivery of a deed-in-lieu of foreclosure with express written acceptance thereof by Mortgagee, or (z) Mortgagee or any other indemnified parties (or a receiver acting solely for the benefit of Mortgagee or any other indemnified party) have taken title to or exclusive possession of



Mortgagor's interest in the Mortgaged Property, provided that, in all cases under such clause (C), such matters shall not arise from or be accumulated with any condition of the Mortgaged Property that existed prior thereto or was caused by Mortgagor, any guarantor or their respective agents. This indemnity provision is in addition to any indemnities contained in the Loan Documents and shall continue in full force and effect and shall survive the payment and performance of the Secured Obligations, the release of record of the lien of this Mortgage, any foreclosure (or action in lieu of foreclosure) of this Mortgage, the exercise by Mortgagee of any other remedy under this Mortgage or any other document or instrument evidencing or securing the Secured Obligations, and any suit, proceeding or judgment against Mortgagor by Mortgagee hereon, but such survival shall only be with respect to matters arising or accruing prior to the applicable event.

6.6 All rights, powers and remedies granted Mortgagee, or otherwise available to Mortgagee, are for the sole benefit and protection of Mortgagee, and Mortgagee, as applicable, may exercise any such right, power or remedy at its option and in its sole discretion, but without any obligation to do so. In addition, if, under the terms hereof, Mortgagee is given two or more alternative courses of action, Mortgagee, as applicable, may elect any alternative or combination of alternatives, at its option and in its sole discretion. All monies advanced by Mortgagee under the terms hereof and all amounts paid, suffered or incurred by Mortgagee in exercising any authority granted herein, including reasonable attorneys' fees, shall be added to the Secured Obligations, shall be secured by this Mortgage, shall bear interest at the highest rate payable on any of the Secured Obligations until paid, and shall be due and payable by Mortgagor to Mortgagee immediately upon demand.

6.7 Mortgagor, upon request of Mortgagee, shall promptly correct any defect, error or omission that may be discovered in the content of this Mortgage or in the execution or acknowledgment hereof. In addition, Mortgagor shall do such further acts as may be reasonably necessary or that Mortgagee may reasonably request to carry out more effectively the purposes of this Mortgage, to subject any property intended to be encumbered hereby to the lien and security interest hereof, and to perfect and maintain the lien and security interest hereof.

## **Section 7. REPRESENTATIONS AND WARRANTIES**

7.1 If Mortgagor is a corporation, limited liability company, partnership or trust, it (i) is validly organized and existing in good standing under the laws of the state in which it is organized; (ii) is authorized to conduct business under the laws of the state in which the Mortgaged Property is located if so required; and (iii) has the requisite power and authority to execute, deliver and perform this Mortgage. The execution, delivery and performance by Mortgagor of this Mortgage has been duly authorized by all requisite action by or on behalf of Mortgagor and will not conflict with or result in a violation of or a default under any agreement, document or instrument (in any material respect) to which Mortgagor is a party or by which Mortgagor or any of the assets of Mortgagor is bound.

7.2 The liens, security interests and assignments created hereby are legal, valid, and binding against Mortgagor and enforceable in accordance with the terms hereof, except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or similar laws and by equitable principles of general application.

7.3 Mortgagor and has paid all impositions related to and concerning the ownership of the Mortgaged Property including any interest or penalties.

7.4 The Mortgaged Property is not in violation of any Legal Requirements (including, without limitation, any Environmental Laws) in any material respect. Mortgagor has not used and has not permitted the use of the Mortgaged Property in violation in any Legal Requirements (including, without limitation, any Environmental Laws) in any material respect.

7.5 All representations and warranties made herein are made as of the date of this Mortgage and shall survive the execution and delivery of all other documents and instruments in connection with the Secured Obligations, and until the Secured Obligations have been fully paid and performed.

## **Section 8. DEFAULTS; REMEDIES**

8.1 The occurrence of any "Event of Default" under the Loan Documents shall constitute an "**Event of Default**" under this Mortgage.

8.2 Upon the occurrence of any Event of Default, and at any time while such Event of Default is continuing, Mortgagee may do one or more of the following:

(a) Declare the entire Secured Obligations to be immediately due and payable, and the same, with all costs and charges, shall be collectible thereupon by action at law.

(b) Foreclose this Mortgage in the manner provided by law. The purchaser under any foreclosure sale shall be under no obligation to see to the proper application of the purchase money.

(c) Exercise any or all of the remedies of a secured party under the Uniform Commercial Code with respect to the Personal Property. If Mortgagee should proceed to dispose of any of the Personal Property in accordance with the provisions of the Uniform Commercial Code, ten (10) business days' notice by Mortgagee to Mortgagor shall be deemed to be commercially reasonable notice under any provision of the Uniform Commercial Code requiring notice. Mortgagor, however, agrees that all property of every nature and description, whether real or personal, covered by this Mortgage, together with all personal property owned by Mortgagor and used on or in connection with the Premises or any business conducted thereon by the Mortgagor and covered by separate security agreements, is encumbered as one unit, that this Mortgage and such security interests, at Mortgagee's option, may be foreclosed or sold in the same proceeding, and that all property encumbered (both realty and personalty), at Mortgagee's



option, may be sold as such in one unit as a going business, subject to the provisions of applicable law.

(d) Without regard to the adequacy of any security for the Secured Obligations or the solvency of Mortgagor or any other person or entity, send notifications to any and all lessees and tenants under the Leases that all Rents shall be paid to Mortgagee. Thereafter, Mortgagee shall be entitled to collect the Rents until Mortgagor cures all Events of Default and may apply the Rents collected at its sole discretion to the maintenance of the Mortgaged Property and/or the payment of the Secured Obligations.

(e) Apply any funds in the possession or control of Mortgagee under the provisions of Paragraph 5.6 hereof to the payment of the Secured Obligations, in lieu of the purposes specified in that paragraph.

(f) Apply for and obtain, without regard to the adequacy of any security for the Secured Obligations or the solvency of the Mortgagor or any other person or entity, a receiver by any court of competent jurisdiction to take charge of all the Mortgaged Property, to manage, operate and carry on any business then being conducted or that could be conducted on the Premises, to carry on, protect, preserve, replace and repair the Mortgaged Property, and receive and collect all Rents and to apply the same to pay the receiver's expenses for the operation of the Mortgaged Property and then in the manner provided in Paragraph 3.3 herein. Upon appointment of said receiver, Mortgagor shall immediately deliver possession of all of the Mortgaged Property to such receiver (subject to the rights of the tenants under any applicable Leases). Neither the appointment of a receiver for the Mortgaged Property by any court at the request of Mortgagee or by agreement with Mortgagor nor the entering into possession of all or any part of the Mortgaged Property by such receiver shall constitute Mortgagee a "mortgagee in possession" or otherwise make Mortgagee responsible or liable in any manner with respect to the Mortgaged Property or the occupancy, operation or use thereof, except as expressly provided elsewhere in this Mortgage. Mortgagor agrees that Mortgagee shall have the absolute and unconditional right to the appointment of a receiver in any independent and/or separate action brought by Mortgagee regardless of whether Mortgagee seeks any relief in such action other than the appointment of a receiver. In that respect, and to the full extent permitted under applicable law, Mortgagor waives any express or implied requirement under common law or the Code of Alabama that a receiver may be appointed only ancillary to other judicial relief.

(g) Without regard to the adequacy of any security for the Secured Obligations or the solvency of Mortgagor or any other person or entity, enter upon and take possession of all or any part of the Mortgaged Property (subject to the rights of the tenants under the Leases), either in person or by agent or employee, or by a receiver appointed by a court of competent jurisdiction; Mortgagor shall on demand peaceably surrender possession of the Mortgaged Property to Mortgagee. Following any Event of Default, Mortgagee as applicable, in its own name or in the name of Mortgagor, may operate and maintain all or any part of the Mortgaged Property to such extent as Mortgagee deems advisable, may rent and lease the same to such persons, for such periods of time, and on such terms and conditions as Mortgagee in its



sole discretion may determine, and may sue for or otherwise collect any and all Rents, including those past due and unpaid. In dealing with the Mortgaged Property as a mortgagee in possession, Mortgagee shall not be subject to any liability, charge, or obligation therefor to Mortgagor, other than for willful misconduct or gross negligence, and shall be entitled to operate any business then being conducted or which could be conducted thereon or therewith at the expense of and for the account of Mortgagor (and all net losses, costs and expenses thereby incurred shall be advances governed by Paragraph 6.7 hereof), to the same extent as the owner thereof could do, and to apply the Rents to pay the receiver's expenses, if any, for the operation of the Mortgaged Property and then in the manner provided in Paragraph 3.3 herein.

8.3 Mortgagor shall pay all reasonable costs and expenses, including without limitation costs of title searches and title policy commitments, Uniform Commercial Code searches, court costs and reasonable attorneys' fees, incurred by Mortgagee in enforcing payment and performance of the Secured Obligations or in exercising the rights and remedies of Mortgagee hereunder. All such costs and expenses shall be secured by this Mortgage and by all other lien and security documents securing the Secured Obligations. In the event of any court proceedings, court costs and attorneys' fees shall be set by the court and not by jury and shall be included in any judgment obtained by Mortgagee.

8.4 In addition to any remedies provided herein for an Event of Default, Mortgagee shall have all other legal or equitable remedies allowed under applicable law. No failure on the part of Mortgagee to exercise any of its rights hereunder arising upon any Event of Default shall be construed to prejudice its rights upon the occurrence of any other or subsequent Event of Default. No delay on the part of Mortgagee in exercising any such rights shall be construed to preclude it from the exercise thereof at any time while that Event of Default is continuing. Mortgagee may enforce any one or more remedies or rights hereunder successively or concurrently. By accepting payment or performance of any of the Secured Obligations after its due date, Mortgagee shall not thereby waive the agreement contained herein that time is of the essence, nor shall Mortgagee waive either its right to require prompt payment or performance when due of the remainder of the Secured Obligations or its right to consider the failure to so pay or perform an Event of Default. In any action by Mortgagee to recover a deficiency judgment for any balance due under the Note upon the foreclosure of this Mortgage or in any action to recover the Secured Obligations secured hereby, and as a material inducement to making the loan evidenced by the Note, Mortgagor acknowledges and agrees that the successful bid amount made at any judicial foreclosure sale, if any, shall be conclusively deemed to constitute the fair market value of the Premises, that such bid amount shall be binding against Mortgagor in any proceeding seeking to determine or contest the fair market value of the Premises and that such bid amount shall be the preferred alternative means of determining and establishing the fair market value of the Premises. Mortgagor hereby waives and relinquishes any right to have the fair market value of the Premises determined by a judge or jury in any action seeking a deficiency judgment or any action on the Secured Obligations.

## **Section 9. GENERAL PROVISIONS**

9.1 The acceptance of this Mortgage by Mortgagee shall not be considered a waiver of or in any way to affect or impair any other security that Mortgagee may have, acquire simultaneously herewith, or hereafter acquire for the payment or performance of the Secured Obligations, nor shall the taking by Mortgagee at any time of any such additional security be construed as a waiver of or in any way to affect or impair the security of this Mortgage; Mortgagee may resort, for the payment or performance of the Secured Obligations, to its several securities or collateral therefor in such order and manner as it may determine.

9.2 Without notice or demand, without affecting the obligations of Mortgagor hereunder or the personal liability of any person for payment or performance of the Secured Obligations, and without affecting the lien or the priority of the lien of this Mortgage, Mortgagee, from time to time, may: (i) extend the time for payment of all or any part of the Secured Obligations, accept a renewal note therefor, reduce the payments thereon, release any person liable for all or any part thereof, or otherwise change the terms of all or any part of the Secured Obligations; (ii) take and hold other security for the payment or performance of the Secured Obligations and enforce, exchange, substitute, subordinate, waive or release any such security; (iii) consent to the making of any map or plat of the Mortgaged Property; (iv) join in granting any easement on or in creating any covenants, conditions or restrictions affecting the use or occupancy of the Mortgaged Property; (v) join in any extension or subordination agreement; or (vi) release any part of the Mortgaged Property from this Mortgage. Any such action by Mortgagee may be taken without the consent of any junior lienholder and shall not affect the priority of this Mortgage over any junior lien.

9.3 Mortgagor waives and agrees not to assert: (i) any right to require Mortgagee to proceed against any guarantor, to proceed against or exhaust any other security for the Secured Obligations, to pursue any other remedy available to Mortgagee, or to pursue any remedy in any particular order or manner; (ii) the benefits of any legal or equitable doctrine or principle of marshalling; (iii) the benefits of any statute of limitations affecting the enforcement hereof; (iv) demand, diligence, presentment for payment, protest and demand, and notice of extension, dishonor, protest, demand and nonpayment, relating to the Secured Obligations; and (v) any benefit of, and any right to participate in, any other security now or hereafter held by Mortgagee.

9.4 Subject to the rights of the tenants under the Leases, Mortgagee shall have the right to inspect the Mortgaged Property at all reasonable times.

9.5 Time is of the essence hereof. If more than one Mortgagor, or more than one Borrower, is named herein, the word "Mortgagor" and the word "Borrower," respectively, shall mean all and any one or more of them, severally and collectively. All liability hereunder shall be joint and several. This Mortgage shall be binding upon, and shall inure to the benefit of, the parties hereto and their heirs, personal representatives, successors and assigns. The term "Mortgagee" shall include not only the original Mortgagee hereunder but also any future owner and holder, including pledgees, of the Note. The provisions hereof shall apply to the parties



according to the context thereof and without regard to the number or gender of words or expressions used.

9.6 This Mortgage cannot be changed except by agreement, in writing, signed by Mortgagor and Mortgagee.

9.7 No setoff or claim that Mortgagor now has or may in the future have against Mortgagee shall relieve Mortgagor from paying or performing the Secured Obligations.

9.8 Each term, condition and provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law but if any term, condition or provision of this Mortgage shall be held to be void or invalid, the same shall not affect the remainder hereof which shall be effective as though the void or invalid term, condition or provision had not been contained herein. In addition, should this instrument be or become ineffective as a Mortgage, then these presents shall be construed and enforced as a realty mortgage with the Mortgagor being the Mortgagor and Mortgagee being the Mortgagee.

9.9 NOTWITHSTANDING ANY REFERENCES HEREIN TO LOCAL LAWS, THIS MORTGAGE, THE SECURED OBLIGATIONS AND THE AGREEMENTS OF ANY PERSON OR ENTITY TO PAY OR PERFORM THE SECURED OBLIGATIONS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF WASHINGTON, WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES, EXCEPT TO THE EXTENT THAT THE STATE IN WHICH THE MORTGAGED PROPERTY IS LOCATED MAY REQUIRE THAT ITS LAWS BE APPLIED TO THE CREATION AND PRIORITY OF LIENS, TO THE PERFECTION OF SECURITY INTERESTS AND TO ANY FORECLOSURE, SALE, APPOINTMENT OF RECEIVER OR OTHER REMEDY WITH RESPECT TO THE MORTGAGED PROPERTY. ANY PROCEDURES PROVIDED HEREIN FOR SUCH REMEDIES SHALL BE MODIFIED BY AND REPLACED WITH, WHERE INCONSISTENT WITH OR REQUIRED BY, ANY PROCEDURES OR REQUIREMENTS OF THE LAWS OF THE STATE IN WHICH THE MORTGAGED PROPERTY IS LOCATED.

9.10 All notices required or permitted to be given hereunder shall be in writing and may be given in person or by United States mail, by delivery service or by electronic transmission. Any notice directed to a party to this Mortgage shall become effective upon the earliest of the following: (i) actual receipt by that party; (ii) delivery to the designated address of that party, addressed to that party; or (iii) if given by certified or registered United States mail, three (3) business days after deposit with the United States Postal Service, postage prepaid, addressed to that party at its designated address. The designated address of a party shall be the address of that party shown at the beginning of this Mortgage or such other address as that party, from time to time, may specify by notice to the other parties.

9.11 As further security for the payment and performance of the Secured Obligations, Mortgagee shall be subrogated to the lien, although released of record, of any and all encumbrances paid from the proceeds of any loan included in the Secured Obligations.



9.12 Mortgagor hereby requests that a copy of any notice of default and notice of sale be mailed to it at the address set forth below. That address is also the mailing address of Mortgagor as debtor under the Uniform Commercial Code. Mortgagee's address given below is the address for Mortgagee as secured party under the Uniform Commercial Code. Any notice in connection with this Mortgage shall not be deemed to have been given to Mortgagee until actually received by Mortgagee. If any notice required by this Mortgage is also required until applicable law, the applicable law requirement will satisfy the corresponding requirement under this Mortgage:

Addresses for Notices to Mortgagor: **JE Homes LLC**  
**2251 Highland Ave S Apt 803**  
**Birmingham, AL 35205**  
Attention: **Joe Demaras**

Address for Notices to Mortgagee: **Vontive, Inc.**  
**500 Sansome Street, Suite 615**  
**San Francisco, CA 94111**  
Attention: **Servicing Department**

With a copy to:

Vontive, Inc.  
1201 2nd Ave, Suite 1910  
Seattle, WA 98101  
Attention: **Servicing Department**  
Email: [servicing@vontive.com](mailto:servicing@vontive.com)

9.13 **WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS MORTGAGE OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN

INDUCED TO ENTER INTO THIS MORTGAGE BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS PARAGRAPH.

9.14 Mortgagor shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements, transfers, and assurances as Mortgagee may reasonably require from time to time in order to better assure, grant, and convey to Mortgagee the rights intended to be granted, now or in the future, to Mortgagee under this Mortgage.

9.15 Without limitation to the generality of the other provisions of this Mortgage, it hereby expressly is covenanted, agreed and acknowledged that the lien and rights hereunder automatically will attach to any further, greater, additional, or different estate, rights, titles or interests in or to any of the Mortgaged Property at any time acquired by Mortgagor by whatsoever means, including that in the event Mortgagor is the owner of an estate or interest in the Mortgaged Property or any part thereof (such as, for example, as the lessee or tenant) other than as the fee simple owner thereof, and if prior to the satisfaction of record of this Mortgage, Mortgagor obtains or otherwise acquires such fee simple or other estate, then such further, greater, additional, or different estate in the Mortgaged Property, or a part thereof, shall automatically, and without any further action or filing or recording on the part of Mortgagor or Mortgagee or any other person or entity, be and become subject to this Mortgage and the lien hereof. In consideration of Mortgagee's making the loan to Borrower as aforesaid, and to secure the Secured Obligations set forth above, Mortgagor hereby grants, bargains, sells and conveys to Mortgagee, on the same terms as set forth in this Mortgage and intended to be a part hereof, all such after-acquired property and estates.

9.16 If Mortgagor shall fully pay the Loan and any other indebtedness then secured hereby (other than contingent obligations that have not matured prior to the release of this Mortgage), then this Mortgage shall thereafter be null and void.

#### **Section 10. ADDITIONAL TERMS AND STATE-SPECIFIC PROVISIONS**

10.1 All advances of principal under the Note shall be made to Mortgagor and/or any related borrower(s), subject to and in accordance with the terms thereof and the Loan Documents. If Mortgagor is a corporation, limited liability company, partnership or trust, it is not necessary for Mortgagee to inquire into the powers of the officers, directors, members, managers, partners, trustees or agents acting or purporting to act on its behalf. Mortgagor is and shall continue to be fully informed as to all aspects of the business affairs of any other borrower parties that it deems relevant to any risks it is assuming and hereby waives and fully discharges Mortgagee from any and all obligations to communicate to Mortgagor any facts of any nature whatsoever regarding Borrower and Borrower's business affairs.

10.2 Mortgagor authorizes Mortgagee, without notice or demand, without affecting the obligations of Mortgagor hereunder or the personal liability of any person for payment or performance of the Secured Obligations and without affecting the lien or the priority of the lien of this Mortgage, from time to time, at the request of any person primarily obligated therefor, to



renew, compromise, extend, accelerate or otherwise change the time for payment or performance of, or otherwise change the terms of, all or any part of the Secured Obligations, including increase or decrease any rate of interest thereon. Mortgagor waives and agrees not to assert: (i) any right to require Mortgagee to proceed against any co-borrower, guarantor or other obligor; (ii) the benefits of any statutory provision limiting the liability of a surety; and (iii) any defense arising by reason of any disability or other defense of any other co-borrower, guarantor or other obligor or by reason of the cessation from any cause whatsoever of the liability of any such other obligor. Mortgagor shall have no right of subrogation and hereby waives any right to enforce any remedy which Mortgagee now has, or may hereafter have, against any co-borrower, guarantor or other obligor.

10.3 If Mortgagor is a married individual, Mortgagor hereby expressly waives any statutory right of homestead held by Mortgagor and/or Mortgagor's spouse under Alabama Code Section 6-10-122, and further waives any personal exemption from debt pursuant to Alabama Code Section 6-10-121.

**[SIGNATURE AND NOTARY PAGES FOLLOW]**

IN WITNESS WHEREOF, this Mortgage was executed as of the date indicated above.

**MORTGAGOR:**

**JE Homes LLC, an Alabama Limited Liability Company**

By: [Signature]  
Name: Joe Demaras  
Title: Member

**ACKNOWLEDGEMENT**

STATE OF ALABAMA  
COUNTY of Jefferson

I, Dana Wright McGowin, a Notary Public (name and style of officer) in and for said County in said State, hereby certify that Joe Demaras whose name as Member of the JE Homes LLC, a Alabama Limited Liability Company, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said Limited Liability Company.  
Given under my hand this 9<sup>th</sup> day of January, 2023.



[Signature]  
Notary Public



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

All that real property situate in the County of **Shelby**, State of Alabama, more particularly described as follows:

**The Land referred to herein below is situated in the County of Shelby, State of Alabama, and is described as follows:**

**Lot 17, Block 2, according to the Survey of Southwind, First Sector, as recorded in Map Book 6, Page 72, in the Probate Office of Shelby County, Alabama.**

**TAX MAP PARCEL NO. 23 2 10 1 007 009.000**

**Exhibit "A"**  
**Property Description**

Lot 17, Block 2, according to the Survey of Southwind, First Sector, as recorded in Map Book 6, Page 72, 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  
01/09/2023 02:16:37 PM  
\$277.00 CHARITY  
20230109000007310

*Allen S. Bayl*