

Prepared By and Return to:
LNL REIT Holding, LLC
1450 Brickell Avenue, Suite 2600
Miami, Florida 33131
Attn: Legal Department

MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

By

BZCP CALERA AL LLC as Grantor

to

LNL REIT HOLDING, LLC as Mortgagee

Dated as of April 16, 2025

Property located at 8370 Highway 31, Calera, Alabama 35040

County: Shelby

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

THIS MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING made as of April 16, 2025 (as amended, extended, renewed, consolidated, spread or otherwise modified from time to time, this “**Mortgage**”), by **BZCP CALERA AL LLC**, an Alabama limited liability company having a place of business at 260 East Main Street, Suite 2746, Rochester, New York 14604 (“**Grantor**” or “**Mortgagor**” or “**Borrower**”) to **LNL REIT HOLDING, LLC**, a Delaware limited liability company, having a place of business and a mailing address, 1450 Brickell Avenue, Suite 2600, Miami, Florida 33131 (“**Mortgagee**” or “**Lender**”).

BACKGROUND

1. Grantor is justly indebted to Mortgagee in the principal amount of **Two Million Five Hundred Sixty-Nine Thousand Eight Hundred Twenty-Six and No/100 Dollars (\$2,569,826.00)** (the “**Loan**”) as set forth and evidenced by the “**Promissory Note**” executed by Grantor dated as of the date hereof, bearing interest and payable to the order of Mortgagee as provided therein, subject, however, to earlier demand as provided therein. Said Promissory Note, as amended, extended, renewed, consolidated or otherwise modified from time to time, and any and all notes that may be given from time to time in exchange, substitution, renewal, restatement, consolidation or replacement therefor, are collectively referred to in this Mortgage as the “**Note**.”

2. Grantor owns a fee estate in that certain piece or parcel of land located in Shelby County, Alabama (the “**Land**”), which Land is more particularly described on **Exhibit A** attached hereto and made a part hereof.

3. To induce Mortgagee to make the Loan, Grantor has agreed to execute and deliver this Mortgage to secure the following:

(a) payment of the indebtedness from time to time evidenced by the Note and all other present and future debts, obligations and liabilities of Grantor under this Mortgage or any of the other Loan Documents (as hereinafter defined), including, but not limited to, all principal, interest, future advances, prepayment premiums, late charges, fees, reimbursements, indemnities, costs and expenses (including court costs and attorneys’ fees) (said indebtedness, debts, obligations and liabilities being collectively referred to in this Mortgage as the “**Indebtedness**”); and

(b) the keeping, performance and observance of, and compliance with, all provisions required to be kept, performed, observed and complied with by Grantor under the Note, the Construction Loan Agreement dated of even date herewith by and between Grantor and Mortgagee, the “**Loan Agreement**”), this Mortgage, a certain Assignment of Leases and Rents of even date herewith executed by Grantor in connection with the Loan (as amended from time to time, the “**Assignment of Leases**”; the Note, this Mortgage, the Assignment of Leases, and such other documents and instruments executed in connection with the Loan (being collectively referred to in this Mortgage as the “**Loan Documents**”) or any other document or instrument now or hereafter evidencing or securing all or any part of the Indebtedness or otherwise governing the responsibilities of Grantor in connection with such Indebtedness or in connection with the Property (as hereinafter defined) or in connection with any other security for such Indebtedness. All capitalized terms not defined herein shall have the same meanings as set forth in the Loan Agreement; and

(c) any and all other obligations secured by this Mortgage, as more particularly provided herein.

NOW, THEREFORE, to secure payment of the Indebtedness and the keeping, performance and observance of, and compliance with the aforesaid provisions, and in consideration of the sum of Ten Dollars (\$10.00) paid to Grantor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby **GRANTS, BARGAINS, SELLS, AND CONVEYS** to Mortgagee and its successors and assigns, forever (and grants to Mortgagee and its successors and assigns forever, as secured party, a continuing security interest in and to), all of the following (collectively, the **"Property"**):

A. all right, title and interest of Grantor, whether vested or contingent and whether now owned or hereafter acquired, in and to (1) Land, (2) all buildings, structures and other improvements now or hereafter situated on the Land (collectively, the **"Buildings"**, each a **"Building"**), (3) all fixtures now or hereafter situated in or on, or attached to, the Land or any of the Buildings (collectively, the **"Fixtures"**), and (4) all trees, shrubbery, crops and other plantings now or hereafter grown on the Land; and

B. all right, title and interest of Grantor (as owner, chattel lessee or otherwise), whether vested or contingent and whether now owned or hereafter acquired, in and to (1) all right, title and interest in and to any building materials, supplies and other property now or hereafter stored at or delivered to the Land or any other location for installation in or on the Land or any of the Buildings, (2) all right, title and interest in and to any equipment, machinery, appliances, furniture, furnishings, fittings, apparatus, supplies and other tangible personal property now or hereafter situated in or on, or attached to, the Land or any of the Buildings (all of the property described in this clause (2) or in the immediately preceding clause (1) being collectively referred to in this Mortgage as the **"Equipment"**) (the Buildings, the Fixtures and the Equipment being collectively referred to in this Mortgage as the **"Improvements"**), (3) all right, title and interest in and to any oil, gas and other minerals now or hereafter situated in, on, under or about, or produced from or allocated to, the Land, and (4) all right, title and interest in and to any plans, specifications, drawings, books, records and similar items now or hereafter relating to the Land, the Improvements or any business or other operations now or hereafter conducted therein or thereon; and

C. all right, title and interest of Grantor, whether vested or contingent and whether now owned or hereafter acquired, in and to all streets, roads, sidewalks, alleys, ways, passages, public places, vaults, water courses, levees, ditches, wells, reservoirs, strips and gores adjoining or otherwise providing access to, or used or intended to be used in connection with, the Land, any of the Improvements or any other part of the Property, and the land lying in the bed thereof; and

D. all right, title and interest of Grantor, whether vested or contingent and whether now owned or hereafter acquired, in and to all easements, rights-of-way and other rights of use or passage (whether public or private), estates, interests, benefits, powers, rights (including development, declarant, lateral support, drainage, slope, riparian, littoral, sewer, water, air, oil, gas, mineral and subsurface rights), privileges, claims, franchises, licenses, profits, tenements, hereditaments, reversions, remainders and appurtenances now or hereafter belonging, relating, appertaining or allocated to the Land, the Improvements or any other part of the Property; and

E. all right, title and interest of Grantor, in and to, and all rights, powers, privileges and benefits of Grantor in, to and under:

(1) subject to Grantor's rights expressly set forth herein, all leases, subleases, lettings, sublettings, concessions, licenses, occupancy and use agreements and similar arrangements, whether oral or written, now or hereafter relating to all or any part of the Land, any of the Improvements or any other part of the Property (collectively, the **"Leases"**) (all present and future lessees, tenants, concessionaires, licensees, occupants and other users of all or any part of the Property under any of the Leases being collectively

referred to in this Mortgage as the “**Tenants**”), including any subleases under any of the Leases, any tenancies following attornment and any use and occupancy arrangements created pursuant to Section 365 of the Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (as amended from time to time, the “**Bankruptcy Code**”), or pursuant to any other provision of the Bankruptcy Code or any other present or future law relating to bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution, conservatorship, receivership or similar relief for debtors (the Bankruptcy Code and each such other law being sometimes referred to in this Mortgage as an “**Insolvency Law**”); and

(2) subject to Grantor’s rights expressly set forth herein, any and all presently effective and future guaranties and other surety arrangements of, for or otherwise relating to any of the Leases (collectively, the “**Lease Guaranties**”) (all present and future guarantors and other sureties under any of the Lease Guaranties being collectively referred to in this Mortgage as the “**Lease Guarantors**”); and

(3) subject to Grantor’s rights expressly set forth herein, leases, licenses, easements and/or other rights in or to and/or agreements relating to any off-site parking necessary, required or desirable in connection with Leases or for use of the Property.

F. subject to Grantor’s rights set forth herein, all right, title and interest of Grantor in and to, and all rights, powers, privileges and benefits of Grantor with respect to, any and all present and future security for, under or otherwise relating to any of the Leases or any of the Lease Guaranties, whether arising by statute, by agreement or otherwise (collectively, the “**Security**”), including property of any Tenant or any Lease Guarantor and cash deposits, advance rentals and deposits and payments of a similar nature, together with all rights of Grantor and any other person claiming under Grantor to collect, hold, return and retain the Security; provided, however, that Grantor shall be permitted, and is hereby granted a revocable license, until the occurrence of any Event of Default (as hereinafter defined), to collect, hold, return and retain the Security, but only in accordance with applicable laws and agreements (subject, however, to the provisions of any lockbox, escrow, rental collection, cash management, direct pay or similar agreements relating to the Security now or hereafter in effect), which permission and license shall automatically and immediately terminate, without notice to Grantor and without the necessity of any other action by any person, upon the occurrence of any Event of Default; and

G. subject to Grantor’s rights expressly set forth herein, all right, title and interest of Grantor, whether vested or contingent and whether now owned or hereafter acquired, in and to all rents, royalties, issues, profits, revenues, income and other money and benefits (including non-cash consideration) of and from the Land, any of the Improvements, any other part of the Property or any business or other operations now or hereafter conducted therein or thereon by or on behalf of or for the benefit of Grantor, whether now or hereafter payable or accruing and whether now or hereafter deliverable (collectively, the “**Rents**”), including (1) all money and other consideration from time to time paid, payable or accruing, or from time to time delivered or deliverable, to or for the benefit of Grantor, or to which Grantor otherwise may be entitled, under or in connection with any of the Leases or any of the Lease Guaranties (including cancellation or termination payments and damages payable in connection with any default), and (2) all money and other consideration from time to time paid, payable or accruing, or from time to time delivered or deliverable, by or on behalf of any other licensees, invitees, guests, customers, occupants or other users of any such Property, together with all rights of Grantor and any other person claiming under Grantor to collect and use the Rents; provided, however, that Grantor shall be permitted, and is hereby granted a revocable license, until the occurrence of any Event of Default, to collect the Rents as, but not before, they become due and payable (subject, however, to the provisions of any lockbox, escrow, rental collection, cash management, direct pay or similar agreements relating to the Rents now or hereafter in effect), which

permission and license shall automatically and immediately terminate, without notice to Grantor and without the necessity of any other action by any person, upon the occurrence of any Event of Default; and

H. all right, title and interest of Grantor (whether as seller, purchaser or otherwise) in and to (1) all presently effective and future agreements for purchase and sale or other transfer of all or any part of the Property, (2) all down payments, earnest money deposits and other money or security paid or payable or deposited or to be deposited in connection with any such agreement, (3) all proceeds of any sale, assignment or other disposition of all or any part of the Property or any rights thereto or any interest therein, and (4) all proceeds of any other conversion of any such Property, rights or interest into cash or any liquidated claim; and

I. subject to Grantor's rights expressly set forth herein, all right, title and interest of Grantor in and to (1) all judgments, settlements, claims, awards, insurance proceeds and other proceeds and compensation, and any interest thereon (collectively "**Compensation**"), made or payable at any time in connection with any fire, casualty or other damage or loss to all or any part of the Property, or in connection with any condemnation or eminent domain proceeding relating to all or any part of the Property (any such proceeding being referred to in this Mortgage as a "**Condemnation Proceeding**") or any damage to or taking of all or any part of the Property or any rights thereto or any interest therein in connection with any condemnation or exercise of the power of eminent domain (or any conveyance in lieu of or under threat of any such taking), including any Compensation for change of grade of streets or any other injury to or decrease in value (any such damage, taking or conveyance being referred to in this Mortgage as a "**Taking**"), (2) all refunds and rebates of, or with respect to, any Insurance Premiums (as hereinafter defined), Impositions (as hereinafter defined) or other utility charges relating to the Property, and any interest thereon, and (3) all unearned or prepaid Insurance Premiums, Impositions and other utility charges, any deposits with respect thereto and any interest thereon; and

J. all right, title and interest of Grantor, whether vested or contingent and whether now owned or hereafter acquired, in and to all accounts, accounts receivable, books and/or records (whatever form) option rights, contract rights, general intangibles, permits, licenses, approvals, bonuses, actions, rights in action and other intangible personal property now or hereafter arising from or relating to all or any part of the Property or any business or other operations now or hereafter conducted therein or thereon by or on behalf of or for the benefit of Grantor (including all rights of Grantor in and to any and all contracts and bonds relating to operation, maintenance, construction, renovation, restoration, repair, management or security of all or any part of the Property or any such business or other operations); and

K. subject to Grantor's rights expressly set forth herein, all right, title and interest of Grantor, whether vested or contingent and whether now owned or hereafter acquired, in and to all proceeds, products, extensions, additions, improvements, betterments, renewals, substitutions, replacements, accessions, accretions and relictions of or to all or any part of the Property or any interest therein; and

L. all further or greater estate, right, title, interest, claim and demand of Grantor, of whatever character (whether vested or contingent and whether now owned or hereafter acquired), in and to any of the Property described above and any rights or interests appurtenant thereto.

FOR THE PURPOSE OF SECURING the performance of each agreement of Grantor contained herein, or under any of the other Loan Documents, including, but not limited to, the payment of any Indebtedness evidenced by the Note, and to protect the security of this Mortgage, Grantor represents, warrants, covenants and agrees as follows:

ARTICLE 1

COVENANTS OF GRANTOR

1.1 Performance of Obligations. Grantor shall keep, perform, observe and comply with, or cause to be kept, performed, observed and complied with, all provisions required to be kept, performed, observed and complied with by or on behalf of Grantor from time to time under each of the Loan Documents. Without limiting the generality of the immediately preceding sentence, Grantor shall pay or cause to be paid to Mortgagee, when due, the Indebtedness and all parts thereof.

1.2 General Representations, Covenants and Warranties.

(a) Grantor does and will warrant generally the Property, and Grantor will forever defend the title to the Property against the claims of all persons whomsoever claiming or who may claim the same or any part thereof, subject to the outstanding liens, easements, restrictions, security interests and other exceptions to title set forth in the policy of title insurance insuring the lien of this Mortgage, together with the liens and security interests in favor of Mortgagee created by the Loan Documents, none of which, individually or in the aggregate, materially interferes with the benefits of the security intended to be provided by this Mortgage, materially and adversely affects the value of the Property, impairs the use or operations of the Property or impairs Grantor's ability to pay its obligations in a timely manner (collectively, the "Permitted Exceptions") and the Lease(s) set forth in the Loan Agreement are referred to herein as the "Existing Leases"). Without limiting the generality of the immediately preceding sentence, Grantor represents, warrants and covenants that:

(i) subject only to the Permitted Exceptions, Grantor is seized of an indefeasible estate in fee simple in and to the Land, the Buildings and all other parts of the Property constituting real property;

(ii) subject only to the Permitted Exceptions, Grantor has good and absolute title to the Equipment, the Fixtures and all other parts of the Property constituting personal property, except Equipment owned by any Tenant (other than Grantor) and Equipment leased by any Tenant from any person other than Grantor;

(iii) the Property is free and clear of any and all liens, security interests, charges, encumbrances and claims of other persons, other than the Permitted Exceptions and the Existing Leases;

(iv) all costs incurred by Grantor prior to the date hereof in connection with any construction of, in or on any Improvements or in connection with the purchase of any Fixtures or Equipment have been paid in full;

(v) no parcel forming part of the Land is included within a tax parcel, for *ad valorem* or local real estate tax purposes, that also includes real property not encumbered by this Mortgage;

(vi) no Leases or Lease Guaranties are in effect other than the Existing Leases and any Lease Guaranties; all of the Existing Leases and such Lease Guaranties are presently in effect; no default exists under any of the Existing Leases or such Lease Guaranties;

(vii) the Land has frontage on, and direct access for ingress from and egress to, physically open, public and dedicated street(s), as described in a survey submitted to Mortgagee in connection with the Loan;

(viii) electric, gas, sewer, water and telephone facilities and any and all other necessary utilities at all times hereafter shall be, available in sufficient capacity to service the Property until the Indebtedness shall have been paid in full, and any easements legally required to assure the continuation of such utility service to the Property have been obtained and duly recorded; and

(ix) to the best of Grantor's knowledge, the Property and its current use comply with the Permitted Exceptions, with all other applicable agreements and restrictive covenants, if any, (including all insurance policies maintained with respect to the Property) and with all applicable laws, ordinances, rules, regulations, orders, judgments, injunctions and decrees (collectively, "**Governmental Requirements**") (including all zoning and subdivision ordinances and building codes and all Environmental Laws, as hereinafter defined), and all licenses, permits, approvals and authorizations required in connection therewith have been duly obtained and are in effect.

(b) Grantor also represents, warrants and covenants that:

(i) Grantor is a duly organized and validly existing limited liability company under the laws of the State of Alabama and is authorized to transact business in the State of Alabama.

(ii) Grantor has duly obtained all licenses, permits, approvals and authorizations, and has duly completed all filings, required for the conduct of its business, and all such licenses, permits, approvals, authorizations and filings are in effect;

(iii) Grantor has good right, full power and lawful authority, without the joinder or consent of any person, to grant, convey, pledge and assign the Property pursuant to and as provided in this Mortgage, and Grantor will maintain and preserve the lien of this Mortgage until the Indebtedness shall have been paid in full;

(iv) all necessary company action has been taken by Grantor to make and constitute the Loan Documents, and the Loan Documents do constitute, legal, valid and binding obligations of Grantor, enforceable in accordance with their respective terms, subject to the effect of Insolvency Laws and other laws affecting creditors' rights generally;

(v) there are no provisions in any indenture, contract, agreement or other document or instrument affecting Grantor or any member of Grantor, or to which Grantor or any member of Grantor is a party or by which Grantor or any member of Grantor or Grantor's properties are bound, which prohibit or limit the execution of any of the Loan Documents or Grantor's keeping, performance and observance of, or Grantor's compliance with, any provisions set forth in any of the Loan Documents, and such actions by Grantor will not violate any Governmental Requirement presently in effect or the adoption, issuance or imposition of which is known to Grantor to be presently under consideration;

(vi) Grantor, and each co-maker, endorser, surety (including but not limited to Grantor) and guarantor (if any) of the Note or of all or any part of the Indebtedness (any and all present or future co-maker(s), endorser(s), surety(ies) and guarantor(s) being referred to in this Mortgage, individually and collectively, as "**Guarantor**") are now able to meet their respective debts as they mature, the fair market value of their respective assets exceeds their respective liabilities and no bankruptcy or insolvency cases or proceedings are pending, or to the actual knowledge of Grantor contemplated, by or against Grantor, or any Guarantor;

(vii) As of the date hereof, there are no actions, suits or proceedings pending, or to the actual knowledge of Grantor threatened, against or affecting Grantor, any Guarantor or the Property in any court or before any governmental authority, nor is Grantor, Principal or any Guarantor in

default with respect to any order of any court or governmental authority. For purposes hereof, the term **“Principal”** shall mean any individual who exerts ownership or management control over the Grantor;

(viii) none of Grantor, Principal, any member of Grantor or any Guarantor has received any written notice of default, or any written notice of the existence of any state of facts which, with notice or the passage of time, or both, would constitute a default if not cured or corrected, under any document or instrument evidencing or securing any indebtedness of any of them, which default or state of facts, if it were to become a default, would have a material adverse effect on the Property or the Loan Documents and Grantor has no actual knowledge of the same;

(ix) to the best of Grantor’s knowledge, all reports, statements and other data furnished to Mortgagee by or on behalf of Grantor, Principal, any member of Grantor or any Guarantor are accurate and complete in all material respects as of the date thereof and do not fail to state any fact or circumstance necessary to make the statements contained therein not misleading in any material respect, and no material adverse change (including the incurring of any material indebtedness not approved by Mortgagee) has occurred in their respective financial conditions since the dates of their respective financial statements most recently furnished to Mortgagee;

(x) Grantor is not a “foreign person” within the meaning of Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended, or any other pertinent provision of said Code; and

(xi) (A) Grantor is not and, during the term hereof, will not be an “employee benefit plan” as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), or other retirement arrangement which is subject to Title I of ERISA or Section 4975 of the Internal Revenue Code of 1986, as amended (the “IRC”), (B) none of Grantor’s assets constitute or, during the term hereof, shall constitute “plan assets” of one or more such plans or arrangements for purposes of Title I of ERISA or Section 4975 of the IRC, (C) Grantor is not, and will not be a “government plan” within the meaning of Section 3(32) of ERISA, and (D) the Loan will not be subject to Alabama state statutes applicable to Grantor regulating investments of, and fiduciary obligations with respect to, governmental plans within the meaning of Section 3(32) of ERISA.

(c) Grantor also represents, warrants and covenants that to the best of Grantor’s knowledge:

(i) except as may have otherwise been disclosed in the environmental reports received by Mortgagee, no proceedings have been commenced against, and no notice, order, claim or demand has been received by, Grantor or any other person or entity having a direct or indirect ownership interest in Grantor concerning any actual or alleged violation of any Environmental Law (as hereinafter defined) or concerning the actual or alleged presence of any Hazardous Substances (as hereinafter defined) in, on, under, about or otherwise affecting (A) the Land and Buildings, or (B) any other property now or previously owned or operated by Grantor, or (C) any other property previously owned or operated in common with all or any part of the Land and Buildings, which other property shall have been combined with all or any part of the Land and Buildings in a single property description;

(ii) except as may have otherwise been disclosed in the environmental reports received by Mortgagee, neither the Property nor any such other property is under investigation by any governmental or quasi-governmental authority or instrumentality with respect to any Environmental Law or any Hazardous Substances;

(iii) except as may have otherwise been disclosed in the environmental reports received by Mortgagee, neither the Property nor any such other property is or has been the subject of any threatened, proposed or actual cleanup or other protective, removal or remedial action relating to any Hazardous Substances, pursuant to any Environmental Law;

(iv) except as may have otherwise been disclosed in the environmental reports received by Mortgagee, there are no Hazardous Substances in, on, under, about or otherwise affecting the Property or any such other property (as discussed in (c)(i) (A) and (B) above, and no release, discharge, spillage, seepage or filtration of any Hazardous Substances has occurred in, on, under, about, from or otherwise affecting the Property or any such other property (including any migration of Hazardous Substances from neighboring land);

(v) except as may have otherwise been disclosed in the environmental reports received by Mortgagee, neither the Property nor any such other property is being used or, to the best of Grantor's knowledge, has been used, for the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use or disposal of any Hazardous Substances; and

(vi) except as may have otherwise been disclosed in the environmental reports received by Mortgagee, there are no active, dormant or closed underground storage tanks or receptacles for Hazardous Substances in, on under or about the Property.

(d) As used in this Mortgage, the term "**Environmental Law**" means any present or future Governmental Requirement relating to Hazardous Substances, contamination or other pollution or relating to environmental protection, cleanup or remediation (including, but not limited to: the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, as amended, 42 U.S.C. Section 11001 et seq.; the Mine Safety and Health Act of 1977, as amended, 30 U.S.C. Section 801 et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300f et seq.; the Comprehensive Environment Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986, collectively "**CERCLA**"), 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601, et seq.; and the Hazardous Materials Transportation Act, as amended, 49 U.S.C. Section 5101 et. seq.; all amendments and supplements thereto, all administrative interpretations thereof and any official publication promulgated or issued pursuant thereto; and all other comparable state and local laws, administrative orders, regulations, and interpretations promulgated thereunder.

(e) As used in this Mortgage, the term "**Hazardous Substances**" means (i) any and all petroleum products, natural gas liquids, asbestos (whether or not friable) and asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls and lead-containing materials, (ii) any and all other pollutants, contaminants and other toxic, harmful or hazardous wastes, substances or materials (A) which, because of their quantitative concentration, chemical, radioactive, flammable, explosive, infectious or other characteristics, constitute or contribute to (or might reasonably be expected to constitute or contribute to) a danger or hazard to public health, safety or welfare or to the environment, (B) the removal of which may be required by any Environmental Law, or (C) the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use disposal, release, discharge, spillage, seepage or filtration of which is or shall be restricted, regulated, prohibited or penalized by any Environmental Law, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "wastes," "regulated substances," "industrial solid wastes," or "pollutants" under Environmental Law, as described above, and/or

other applicable environmental laws, ordinances and regulations, (iii) any chemical known to cause cancer or reproductive toxicity, the exposure to which is limited or regulated by any governmental authority having jurisdiction over human health and safety, natural resources or the environment, because of such chemical's quantity, concentration, or physical chemical characteristics, or (iv) toxic mold.

1.3 Patriot Act Compliance. Grantor hereby represents, warrants and covenants that, as of the date hereof and until such time as the Indebtedness shall be paid in full:

(i) None of Grantor, Guarantor, Principal or, to the best of Grantor's knowledge, any person or entity controlling or controlled by Grantor, any person or entity with a beneficial interest in Grantor, any of their respective direct or indirect constituents or affiliates, any of their respective officers or directors (including officers or directors of any such constituents or affiliates), and, to Grantor's knowledge, any of their respective brokers, investors or other agents acting or benefiting in any capacity in connection with the Loan, is or will be a Prohibited Person (as hereinafter defined);

(ii) None of Grantor, Guarantor, Principal, or any person or entity controlling or controlled by Grantor, any person or entity with a beneficial interest in Grantor, any of their respective direct or indirect constituents or affiliates, any of their respective officers or directors (including officers or directors of any such constituents or affiliates) (A) to Grantor's knowledge, has conducted or will conduct any business or has engaged or will engage in any transaction or dealing with any Prohibited Person, including making or receiving any contribution of funds, goods or services to or for the benefit of any Prohibited Person, (B) to Grantor's knowledge, has dealt or will deal in, or otherwise has engaged or will engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order (as hereinafter defined); or (C) to Grantor's knowledge, has engaged or will engage in or has conspired or will conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the requirements or prohibitions set forth in the Executive Order (as hereinafter defined) or the PATRIOT Act (as hereinafter defined);

(iii) To Grantor's actual knowledge, none of the brokers, investors or other agents for any person or entity controlling or controlled by Grantor or to Grantor's knowledge, any person or entity with a beneficial interest in Grantor or acting in any capacity in connection with the Loan (A) has conducted or will conduct any business or has engaged or will engage in any transaction or dealing with any Prohibited Person, including making or receiving any contribution of funds, goods or services to or for the benefit of any Prohibited Person, (B) has dealt or will deal in, or otherwise has engaged or will engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order; or (C) has engaged or will engage in or has conspired or will conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the requirements or prohibitions set forth in the Executive Order or the PATRIOT Act;

(iv) Grantor covenants and agrees to deliver to Mortgagee any certification or other evidence reasonably requested from time to time by Mortgagee in writing, confirming Grantor's compliance with this Section 1.3;

(v) Grantor represents and warrants that to its knowledge Grantor, Principal and Guarantor and all of their respective affiliates (including any officers and directors of any of the foregoing) are in full compliance with all applicable orders, rules and regulations issued by, and recommendations of, the U.S. Department of the Treasury and OFAC (as hereinafter defined) pursuant to the PATRIOT Act, other legal requirements relating to money laundering or terrorism and any executive orders related thereto;

(vi) At all times throughout the term of the Loan, Grantor, Principal, Guarantor, and all of their respective affiliates (including any officers and directors of any of the foregoing) shall be in full compliance with all applicable orders, rules and regulations issued by, and recommendations of, the U.S. Department of the Treasury and OFAC pursuant to the PATRIOT Act, other legal requirements relating to money laundering or terrorism and any executive orders related thereto;

(vii) Grantor covenants that it will adopt policies, procedures and internal controls to be fully compliant with any additional laws, rules or regulations relating to money laundering and/or terrorism, including the PATRIOT Act, to which it may become subject;

(viii) Grantor does not believe, and has no reason to believe, that any of its investors is a "Prohibited Foreign Shell Bank" (as defined in the PATRIOT Act), or is named on any available lists of known or suspected terrorists, terrorist organizations or of other sanctioned persons issued by the United States government and/or the government(s) of any jurisdiction(s) in which Grantor is doing business;

(ix) Grantor does not believe, and has no reason to believe, that the person or entity from whom Grantor acquired the Property is a Prohibited Foreign Shell Bank, or is named on any available lists of known or suspected terrorists, terrorist organizations or of other sanctioned persons issued by the United States government and/or the government(s) of any jurisdiction(s) in which Grantor is doing business;

(x) Grantor will advise Mortgagee immediately of Grantor gaining actual knowledge of any material change that would affect the representations, covenants and warranties provided in this Section 1.3.

As used herein, the following terms shall have the following respective meanings:

"Prohibited Person" means any individual or entity:

(a) listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (the **"Executive Order"**);

(b) that is owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of the Executive Order;

(c) with whom Mortgagee is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering legal requirements, including the PATRIOT Act and the Executive Order;

(d) that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order;

(e) that is named as a "specifically designated national (SDN)" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/ofac/tl1sdn.pdf> or at any replacement website or other replacement official publication of such list or is named on any other U.S. or foreign government or regulatory list issued after September 11, 2001;

(f) that is covered by OFAC or any other law, regulation or executive order relating to the imposition of economic sanctions against any country, region or individual pursuant to United States law or United Nations resolution; or

(g) that is an affiliate (including any principal, officer, immediate family member or close associate) of a person or entity described in one or more of clauses (a) - (f) of this definition of "Prohibited Person".

"OFAC" means the U.S. Department of Treasury's Office of Foreign Asset Control.

"PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56 (The USA Patriot Act)), as the same may be amended and/or replaced from time to time.

None of the representations, warranties or covenants set forth in Sections 1.2 and 1.3 are intended to limit the generality of any other representations, warranties or covenants set forth in this Mortgage, any of the other Loan Documents or any other documents delivered in connection with the Loan.

1.4 Compliance with Requirements. Grantor shall use its best efforts to cause the Tenant to cause the Property and the use thereof to comply at all times with the Permitted Exceptions, with all other applicable agreements and restrictive covenants, if any (including all insurance policies maintained with respect to the Property) and with all applicable Governmental Requirements (including all zoning and subdivision ordinances and building codes and all Environmental Laws), whether now or hereafter in effect. Grantor shall use its best efforts to cause the Tenant to obtain and maintain all licenses, permits, approvals, authorizations and filings from time to time required in connection with the Property and the use thereof.

1.5 Discharge of Liens. If any mechanic's, laborer's, materialman's, statutory or other lien or any other security interest, charge or encumbrance (other than the Permitted Exceptions, any lien for Impositions (as hereinafter defined) not yet due and payable or any lien for Impositions being contested and remaining unpaid in accordance with Section 1.6) shall be filed or otherwise imposed upon or against all or any part of the Property, then Grantor shall, within thirty (30) days after being given notice of (or otherwise becoming aware of) such filing or Imposition, cause such lien, security interest, charge or encumbrance to be vacated or discharged of record by payment, deposit, bond, final order of a court of competent jurisdiction or otherwise, provided however, Grantor shall have the right to actively contest any such mechanic's, laborer's, materialmen's, statutory or other lien or encumbrance provided same is properly bonded. If any such lien, security interest, charge or encumbrance shall not be so vacated or discharged, then, in addition to any other right or remedy of Mortgagee, Mortgagee shall be entitled, but shall not be obligated, to discharge such lien, security interest, charge or encumbrance in such reasonable manner as Mortgagee may select, and Mortgagee shall be entitled, if Mortgagee shall so elect, to compel the prosecution of an action for the foreclosure of such lien, security interest, charge or encumbrance by the lienor and to pay the amount of any judgment in favor of such lienor, with interest, costs and allowances. Within thirty (30) days of Mortgagee's written request, Grantor shall reimburse Mortgagee for all such payments and for reasonable actual out-of-pocket costs, expenses and liabilities (including reasonable attorneys' fees) incurred by Mortgagee in connection therewith, together with interest thereon at the Default Rate (as hereinafter defined) from the date reimbursement is requested in writing by Mortgagee until the date of such reimbursement. Notwithstanding the foregoing, in the event of any inconsistencies between this Section 1.5 and the Loan Agreement, the terms of the Loan Agreement shall control and be binding.

1.6 Taxes Affecting Property. Subject to the terms of the Loan Agreement:

(a) Grantor shall pay or cause to be paid, on or before the last day when they may be paid without interest, penalty or increase (except to the extent otherwise provided in paragraph (b) of this

Section), all taxes, assessments, rates, dues, charges, fees, levies, excises, duties, fines, impositions, liabilities, obligations and encumbrances, general or special, ordinary or extraordinary, foreseen or unforeseen, of every kind whatsoever, now or hereafter imposed, levied or assessed by any public or quasi-public authority or instrumentality upon or against all or any part of the Property or the use, occupancy or possession thereof, or upon or against this Mortgage, the Indebtedness or the interest of Mortgagee in the Property, as well as all income taxes, assessments and other governmental charges imposed, levied or assessed upon or against Grantor or in respect of all or any part of the Property, and any and all interest, costs and penalties on or with respect to any of the foregoing (collectively, the **"Impositions"**). Upon Mortgagee's written request, Grantor shall deliver to Mortgagee copies of original receipts or other satisfactory proof of payment of any and all Impositions, unless Mortgagee is escrowing for said Impositions.

(b) After prior written notice to Mortgagee, Grantor shall have the right, at its sole expense, to contest (or allow its Tenant to contest) the validity, applicability or amount, in whole or in part, of any asserted Imposition and to seek a reduction in the valuation of all or any part of the Property as assessed for tax purposes, by appropriate proceedings diligently conducted in good faith to final determination, but only after payment of the asserted Imposition, unless such payment would operate as a bar to such contest or would interfere materially with the prosecution of such contest, in which event payment of the asserted Imposition may be postponed if, and only so long as:

(i) Grantor provides prior written notice to Mortgagee of Grantor's (or tenant's) intent to contest any asserted Impositions;

(ii) Grantor (or Tenant) shall have paid any minimum amount required by applicable law to be paid in connection with such contest (which payment may be made under protest if required or permitted by applicable law);

(iii) Mortgagee would not, in Mortgagee's sole but reasonable judgment, be in danger of being subjected to any material liability, penalty or charge of any kind in connection with such contest or in connection with such postponement or nonpayment;

(iv) neither the Property nor any part thereof or any interest therein would, in Mortgagee's sole judgment, be in danger of being forfeited or lost by reason of such contest or by reason of such postponement or non-payment (whether due to the foreclosure of any lien securing any asserted Imposition or otherwise); and

(v) Grantor (or Tenant) shall have established an escrow acceptable to Mortgagee in an amount estimated by Mortgagee to be adequate to cover (A) the unpaid amount of the asserted Imposition, (B) all interest, penalties and similar charges which reasonably can be expected to accrue by reason of such contest or by reason of such postponement or nonpayment, and (C) all actual out-of-pocket costs, fees and expenses (including reasonable attorneys' fees) that reasonably can be expected to be incurred in connection therewith by Mortgagee, which escrow shall be maintained in effect throughout such contest and the amount of which shall be increased from time to time if required by Mortgagee.

(c) Upon termination of any such contest (whether by entry of a final judgment or otherwise), or at any time during the course of any such contest when the conditions permitting postponement of payment of the asserted Imposition are no longer satisfied or are discovered to be unsatisfied, Grantor shall pay or cause to be paid the then-unpaid portion of such asserted Imposition, together with all interest, penalties and similar charges and all actual out-of-pocket costs, fees and expenses (including reasonable attorneys' fees) incurred in connection therewith. At Grantor's option following the Grantor's failure to diligently proceed with any contest as required hereunder, the escrow established

pursuant to paragraph (b) of this Section may be applied at such time to payment of all or any part of such Imposition, interest, penalties, charges, actual out-of-pocket costs, fees and expenses. Upon payment of the full amount of such asserted Imposition and such interest, penalties, charges, actual out-of-pocket costs, fees and expenses, Grantor shall deliver to Mortgagee evidence of such payment. Thereafter, the amount then remaining in the escrow established pursuant to paragraph (b) of this Section shall be promptly returned to Grantor.

(d) Grantor shall not claim, demand or be entitled to receive any reduction of, or credit toward, any Impositions on account of the Indebtedness. No deduction shall be claimed from the taxable value of all or any part of the Property by reason of the Indebtedness, any of the Loan Documents or the interest of Mortgagee in the Property.

1.7 Taxes Affecting Mortgagee's Interest.

(a) If existing laws or procedures governing the taxation of mortgages, deeds of trust or debts secured by mortgages or deeds of trust shall be changed in any manner after the date hereof so as to impair the security of this Mortgage or to reduce the net income to Mortgagee in respect of the Indebtedness, then, upon Mortgagee's written request, Grantor shall pay to Mortgagee or to the taxing authority (if so directed by Mortgagee) all taxes, charges and related actual out-of-pocket costs for which Mortgagee may be liable as a result thereof; provided, however, that, if (in Mortgagee's reasonable opinion) payment by Grantor of any such taxes, charges or related costs is prohibited by applicable law or would subject Mortgagee to any liability, penalty or charge of any kind or would render the Note usurious, then, in any such event, Grantor shall not make such payment, and the entire balance of the Indebtedness, without notice, shall be due and payable within thirty (30) days after written notice from Mortgagee, at the option of Mortgagee, without the payment of any Prepayment Consideration. Notwithstanding the foregoing, Grantor shall not be liable for the payment of any income tax to be paid by Mortgagee or as a result of any increase in the income tax rate applicable to Mortgagee.

(b) Grantor shall pay, when due, any and all recording, intangible property and documentary stamp taxes, all similar taxes, and all filing, registration and recording fees, now or hereafter payable in connection with the Indebtedness, this Mortgage or any of the other Loan Documents. Grantor shall pay, when due, any and all excise, transfer and conveyance taxes now or hereafter payable in connection with the Indebtedness, this Mortgage or any of the other Loan Documents or in connection with the exercise or enforcement of Mortgagee's rights, powers, privileges and remedies with respect thereto. Without limiting the generality of the foregoing, Grantor shall pay, when due, any and all such taxes payable in connection with any foreclosure of this Mortgage, any so-called deed in lieu of foreclosure of this Mortgage, any transfer of all or any part of the Property (or any interest therein) pursuant to the Bankruptcy Code or any other Insolvency Law or any other transfer of all or any part of the Property (or any interest therein) in extinguishment or satisfaction of all or any part of the Indebtedness or any related obligations of Grantor. Any such foreclosure (whether judicial or, to the extent permitted by law, non-judicial), sale, deed in lieu or other transfer is sometimes referred to in this Mortgage as a "**Foreclosure.**" The purchaser, grantee or other person succeeding to ownership of all or any part of the Property (or any interest therein) pursuant to any Foreclosure is sometimes referred to in this Mortgage as the "**Subsequent Owner.**"

1.8 Insurance. Subject to the terms of the Loan Agreement which shall control and be binding to the extent of any inconsistencies with this Section 1.8:

(a) Grantor shall or shall cause Tenant to obtain for, deliver to, assign to, and maintain for the benefit of Mortgagee, for so long as this Mortgage shall remain in effect, insurance policies (including renewals as provided below) in such amounts as Mortgagee may reasonably require, insuring the Property against all insurable hazards, casualties and contingencies (including, but not limited to, loss of rentals, business interruption, earthquake and terrorism and during the construction of the Project,

Builder's Risk) as Mortgagee may reasonably require. Grantor shall or shall cause Tenant to pay all premiums on such insurance policies and all other fees and charges payable in connection with such insurance policies (such premiums, fees and charges being collectively referred to in this Mortgage as "**Insurance Premiums**") not later than the due date thereof. During the progress of any construction, renovation, restoration or repair in or on the Property, Grantor shall cause Tenant to maintain such insurance in builder's risk, completed value, non-reporting form, with permission to complete and occupy, together with workers' compensation coverage. All such policies shall be issued by a company or companies reasonably acceptable to Mortgagee, shall be in form reasonably acceptable to Mortgagee and shall contain such provisions and endorsements as Mortgagee may reasonably require. Without limiting the generality of the foregoing, each such policy shall contain noncontributory standard mortgagee and lender's loss payable endorsements making all losses payable to Mortgagee, shall provide that no act or omission of Grantor shall invalidate such policy as against Mortgagee and shall provide that such policy shall not be canceled, terminated, denied renewal or materially altered without at least thirty (30) days' prior written notice to Mortgagee (or ten (10) business days for nonpayment). Certificates of insurance with respect to all such policies and (if requested by Mortgagee) duplicate originals of all such policies shall be delivered to Mortgagee. At least thirty (30) days prior to the expiration date of each such policy, a replacement or renewal of such policy reasonably satisfactory to Mortgagee shall be delivered to Mortgagee. At least thirty (30) days prior to the expiration date of each such policy (including each such renewal), Grantor shall deliver to Mortgagee a satisfactory receipt evidencing the prepayment of all Insurance Premiums relating to such policy for a period of not less than one (1) year. In the event of any Foreclosure, all right, title and interest of Grantor in and to all such policies then in force shall pass to the Subsequent Owner. Mortgagee's acceptance or approval of any insurer or of any insurance coverage shall not be construed as a representation, warranty or agreement concerning the financial capability or reliability of such insurer or concerning the adequacy of such coverage for any purpose other than compliance with the requirements of this Section, and Mortgagee shall not be responsible or accountable to Grantor or any other person for the selection of any such insurer or any such coverage.

(b) Grantor shall or shall cause Tenant at their expense, to obtain for, deliver to, and maintain for the benefit of Mortgagee, for so long as this Mortgage shall remain in effect, liability insurance policies relating to the Property, in such amounts, with such companies and in such form as Mortgagee may reasonably require. Each such policy shall name Mortgagee as an additional insured and shall provide that such policy may not be cancelled, terminated, denied renewal or materially altered without at least thirty (30) days' prior written notice to Mortgagee. Grantor shall pay all premiums on such insurance policies when due and, promptly thereafter, shall deliver to Mortgagee satisfactory evidence of such payment.

(c) Grantor shall not carry, and shall not cause, permit or suffer to be carried, any additional or separate insurance concurrent in form or contributing in the event of loss with any insurance required to be maintained pursuant to this Mortgage, or in excess of the amounts of insurance coverage required to be maintained pursuant to this Mortgage, unless such insurance shall comply with the provisions of this Section (including the loss payable provisions set forth above). Grantor shall immediately notify Mortgagee if any such additional, separate or excess insurance shall be carried and, promptly thereafter, shall deliver to Mortgagee duplicate originals of all policies of such insurance (including all renewals thereof).

1.9 Deposits.

(a) Following the occurrence of an Event of Default, in order to assure compliance with Grantor's obligations under Section 1.6, but not in lieu of such obligations, Grantor, at the election of Mortgagee upon written notice to Grantor, shall pay to Mortgagee (or Mortgagee's loan correspondent, if any), each month and with each regularly scheduled payment under the Note (or at such other time or times as Mortgagee may request), an amount equal to one-twelfth (1/12) of the annual Impositions, next becoming due and payable (as estimated or determined by Mortgagee). In addition, following the occurrence of an

Event of Default, upon Mortgagee's written request, Grantor shall pay to Mortgagee (or Mortgagee's loan correspondent, if any) such additional funds as Mortgagee may estimate or determine to be necessary to enable Mortgagee (or Mortgagee's loan correspondent, if any) to pay any Impositions then due and payable or to pay, when due, any or all of the Impositions next becoming due and payable after the date of such request.

(b) No deposits paid to Mortgagee pursuant to this Section shall be deemed to be trust funds, and any and all such deposits may be commingled with the general funds of Mortgagee. No interest shall be required to be paid to Grantor in respect of any such deposits. Grantor shall deliver to Mortgagee, promptly after the receipt thereof, all bills for Impositions for which Mortgagee shall have collected, or shall be collecting, deposits pursuant to this Section. Grantor also shall deliver to Mortgagee, upon Mortgagee's written request or at such other time or times as may be required, any and all other documents and instruments that may be required to enable Mortgagee to pay such Impositions when due (or in the case of real property taxes, the date on which the taxes would become delinquent if not paid). Grantor further acknowledges that Mortgagee may, in its sole discretion, engage the services of a tax service company to verify the status of taxes and assessments on the Property. Grantor shall promptly reimburse Mortgagee for the reasonable out-of-pocket costs of said tax service company. In the event Mortgagee pays any Imposition, Mortgagee shall be entitled to rely in good faith, notwithstanding whether or not Mortgagee engages a tax service company, upon any certificate, advice or bill from any authority (or any official thereof) or from any other person to which such Imposition may be payable, and Mortgagee shall have no duty to inquire as to the validity or accuracy of any such certificate, advice or bill or to make any protest in connection with any such payment or any such certificate, advice or bill. Upon the occurrence of any Event of Default, Mortgagee, at its option, may apply all or any part of any such deposits then remaining to Grantor's credit, in such manner as Mortgagee may determine, to reduce the Indebtedness then outstanding.

(c) Nothing contained in this Section shall be deemed to affect any right, power, privilege or remedy of Mortgagee, under any provision of this Mortgage or under any statute or rule of law, to pay any amount required to be paid by Section 1.6 or Section 1.8, to add the amount so paid to the Indebtedness and to require Grantor to reimburse Mortgagee for such amount, together with interest thereon at the Default Rate from the date so paid until the date so reimbursed. Although Mortgagee intends to use reasonable efforts to make payments in a timely fashion with any deposits collected pursuant to this Section, the arrangements described in this Section are solely for the added protection of Mortgagee and shall entail no responsibility on Mortgagee's part beyond the allowing of due credit, without interest, for deposits actually received by Mortgagee. In the event of any transfer of Grantor's right, title and interest in or to all or any part of the Property, Mortgagee shall be entitled to treat such transfer as also effecting an assignment to the transferee of all right, title and interest of Grantor in and to any and all such deposits relating to the transferred portion of the Property, subject, however, to the rights of Mortgagee under this Mortgage. After any assignment by Mortgagee of its interest in this Mortgage, any such deposits on hand shall be turned over to the assignee or returned to Grantor, and all responsibility of Mortgagee with respect to such deposits shall terminate.

1.10 Casualty and Condemnation. Grantor shall comply with all obligations set forth in Article 17 of the Loan Agreement in the event the Property is damaged by a casualty or becomes subject to any condemnation or other taking. All proceeds or awards recovered by, or payable to, Borrower by reason of such event shall be paid and administered in accordance with the terms of the Loan Agreement.

1.11 Care and Management of Property.

(a) Grantor shall keep or cause the Tenant to keep the Property (or cause the Property to be) in good and safe condition and repair and in working order (ordinary wear and tear excepted and subject to the right to restore and repair after a Casualty) and shall cause all repairs, replacements and improvements to be made as and when required to keep the Property in such condition and repair and in

working order. Grantor shall not threaten, cause, permit or suffer (i) any abandonment or physical waste of all or any part of the Property or any material impairment or deterioration of all or any part of the Property (it being understood and agreed that failure to pay Impositions and/or to make repairs with respect to the Property due to the fact that the Property had insufficient cash flow to pay same shall not, for purposes of this Mortgage, be deemed abandonment), (ii) the conduct of any nuisance in or on the Property, or (iii) any act or omission that would materially increase the risk that any Casualty could occur. Grantor shall pay or cause to be paid, when due, all charges for utilities serving or intended to serve the Property, as well as all assessments and charges payable from time to time under the Permitted Exceptions or any other agreements or covenants, whether public or private, affecting the Property.

(b) Grantor hereby authorizes Mortgagee, or any agent, independent contractor or other representative of Mortgagee, upon not less than forty eight (48) hours prior written notice to Grantor except in the event of an emergency in which case such notice as is reasonable shall be acceptable, and subject to the rights of tenants under any Leases, to at mutually agreeable times enter upon the Property (and Grantor may at its option have a representative of Grantor accompany the Mortgagee for such site visits or audits) for the purpose of examining and copying the books and records of Grantor and the property manager related to the Property and for performing, or causing to be performed: (i) non-invasive environmental inspections of the Property (including, but not limited to, the investigations and testing necessary to conduct and complete Phase I investigations), (ii) engineering and structural inspections, testing, investigations and analysis, (iii) property valuation appraisals, and (iv) any other acts that Mortgagee is expressly authorized to perform under the terms of this Mortgage, provided however, if no Event of Default shall have occurred, Mortgagee shall not perform or cause to be performed any of the inspections or activities in (i)-(iii) above more than once during the term of the Loan (provided any appraisal performed in connection with the extension of the Loan shall not apply to this limitation). All reasonable actual out-of-pocket costs and expenses incurred by Mortgagee in the exercise of its rights under this subsection shall be paid by Mortgagee, provided that if (1) Mortgagee has a good faith basis for suspecting that a material deterioration in the physical condition of the Property has or is occurring, or (2) Mortgagee has a good faith basis for suspecting that there are Hazardous Substances present on, or are otherwise being handled or discharged from, the Property in material violation of applicable law, or (3) the examination of such books and records reveals that any financial information submitted to Mortgagee is incorrect, incomplete or misleading in any material respect, or (4) an Event of Default hereunder or under the Loan Documents exists and remains uncured, then the reasonable actual out-of-pocket costs and expenses of such inspection shall be secured by this Mortgage and shall be payable by Grantor upon written demand.

(c) If the Property shall be physically damaged or destroyed by any Casualty or other cause, then Grantor shall promptly give written notice of such damage or destruction to Mortgagee. Thereafter, Grantor shall promptly commence and diligently pursue to completion the restoration or repair of the Property in accordance with the terms of the Loan Agreement.

(d) Except as permitted under the Loan Agreement, no work required to be performed pursuant to this Section (other than routine maintenance and repairs) shall be undertaken until plans and specifications for such work, have been prepared and signed by an architect or engineer satisfactory to Mortgagee, have been approved by all governmental authorities whose approval is required, and have been submitted to and approved in writing by Mortgagee, which approval shall not be unreasonable withheld, conditioned or delayed, except in case of an emergency when only such notice and approval as is reasonable shall be required.

(e) Except as permitted under and contemplated in the Loan Agreement, no part of the Improvements shall be removed, demolished or materially altered, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Grantor shall have the right, without the consent of Mortgagee, to remove and dispose of, free from the lien of this Mortgage, items of Equipment that have become worn out or obsolete; provided,

however, that, either simultaneously with or prior to such removal or disposition, each such item shall be replaced with another item or items of equal utility and of a value at least equal to that of the replaced item when first acquired, which item or items shall be owned by Grantor and shall be free from any lien, security interest, charge, encumbrance, ownership interest or other right or claim of any other person. By such removal and replacement, Grantor shall be conclusively deemed to have elected to subject said replacement item to the lien of this Mortgage.

(f) The Property shall at all times be managed by Grantor, or by such other management company as may be reasonably approved in writing by Mortgagee in its sole but reasonable discretion. Such management shall be conducted pursuant to and in accordance with a management agreement approved in writing by Mortgagee. Such management agreement shall not be materially amended, terminated or canceled without the prior written consent of Mortgagee, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary contained herein, Mortgagee shall have the right to require a change in the property manager upon the occurrence of an Event of Default. Payments due under any management agreement after an Event of Default shall be subordinate to the payments becoming due under the Loan.

1.12 Use of Property.

(a) Subject to the terms of the Lease, the Property shall be used as an early childhood education facility or preschool only (along with related amenities) and for no other purpose except as otherwise permitted by Mortgagee in its sole and reasonable discretion. Without limiting the generality of the immediately preceding sentence, Grantor shall not cause, permit or suffer any drilling or exploration for, or extraction, removal or production of, oil, gas or minerals from the surface or subsurface of the Land. Grantor shall not declare, advertise or market all or any part of the Property as an existing or proposed condominium, cooperative or other common interest community.

(b) Except as permitted under the Loan Agreement, Grantor shall not, without the prior written consent of Mortgagee, (i) request or otherwise initiate, consent to or acquiesce in any zoning classification or reclassification of the Property or the adoption, issuance, imposition or amendment of any other Governmental Requirement relating to the use, occupancy, operation, development or disposition of the Property, (ii) request or otherwise initiate, consent to or acquiesce in the annexation of all or any part of the Property by or into any municipality or other governmental or quasi-governmental unit, or (iii) execute, file or record any subdivision plat affecting the Property or request or otherwise initiate, consent to or acquiesce in any subdivision affecting the Property.

(c) Grantor shall not, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed, (i) enter into, consent to or otherwise cause, permit or suffer the Property to become subject to any covenant, agreement or other arrangement restricting or limiting the use, occupancy, operation, development or disposition thereof, (ii) execute, file or record any map, plat or replat affecting the Property, or (iii) except as otherwise specifically permitted pursuant to this Mortgage, cause, permit or suffer the Property to become subject to any easement, right-of-way, privilege, claim, franchise, license or profit or any other estate, interest, benefit, power or right.

(d) Grantor shall not cause, permit or suffer the Property to be used by the public without restriction or in any manner that might tend to impair Grantor's right, title and interest in and to all or any part of the Property or in any manner that might make possible any claim of adverse usage or adverse possession by the public or any claim of implied dedication of all or any part of the Property.

(e) If, pursuant to any Governmental Requirement, the existing or any future use, occupancy or operation of the Property is or shall be permitted only so long as such use, occupancy or

operation shall continue, then Grantor shall not cause, permit or suffer such use, occupancy or operation to be discontinued without the prior written consent of Mortgagee.

(f) Grantor shall not cause, permit or suffer the installation of any underground storage tank or receptacle or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage or filtration of any Hazardous Substances, in, on, under, about or from the Property except for substances of kinds and in amounts ordinarily and customarily used or stored in similar properties for the purposes of construction, cleaning or other maintenance or operations and otherwise in compliance with all Environmental Laws.

1.13 Leases.

(a) Grantor shall keep, perform, observe and comply with all of its material obligations as landlord under all Leases from time to time in effect, and Grantor shall use its commercially reasonable efforts to require the Tenant under each Lease to keep, perform, observe and comply with Tenant's obligations thereunder. Upon request, Grantor shall deliver to Mortgagee accurate and complete original or certified copies of all Leases and all amendments thereto.

(b) Without in any way limiting the foregoing, any new Lease executed and/or agreed upon by Grantor subsequent to the execution of this Mortgage, or any amendment, renewal, extension, modification, or other change to any Existing Lease, shall be in writing and in a form substantially similar to the form of Lease approved in writing by Mortgagee. For purposes of clarity, any Lease must be approved in writing by Mortgagee.

(c) Grantor shall not, without the prior written consent of Mortgagee, (i) accelerate or accept the payment of Rents under any Lease more than thirty (30) days in advance of the due date thereof, or (ii) grant any reduction, deferral or abatement of the Rents payable under any Lease. Grantor shall hold all such security deposits and advance payments as trust funds for the benefit of Tenants and subsequent owners and operators of the Property.

(d) Neither the assignment of the Leases and the Lease Guaranties under this Mortgage nor any acts or omissions of Mortgagee in connection therewith shall be deemed or construed to (i) cause Mortgagee to be or to become a mortgagee-in-possession of the Property, (ii) impose upon Mortgagee any obligations, duties or liabilities of Grantor under or in respect of any Lease or any Lease Guaranty (including any liability under any covenant of quiet enjoyment in the event that any Tenant shall have been barred and foreclosed as a result of any Foreclosure), or (iii) impose on Mortgagee any responsibility for the control, management, operation, care, repair or maintenance of the Property, for any waste or dangerous or defective condition of the Property or for any environmental contamination of or emanating from the Property. Without limiting or otherwise affecting the foregoing, Grantor shall assign to Mortgagee (if so directed by Mortgagee), as additional security for the Indebtedness, by a written document approved by Mortgagee, all right, title and interest (presently, absolutely, and unconditionally and not merely collaterally) of Grantor in and to any and all Leases and Lease Guaranties then in effect, together with all Rents payable or accruing thereunder as set forth below and further described in the Assignment of Leases.

(e) Without limiting the generality of the foregoing, each Lease entered into on or after the date hereof, and any amendment, modification, renewal, or extension of any Existing Lease, and all rights of the Tenants thereunder, shall be subject and subordinate to this Mortgage (either by its terms or pursuant to a subordination, non-disturbance and attornment agreement to be entered into between the tenant and Mortgagee), except to the extent, if any, such Lease or Leases shall be made superior to the lien of this Mortgage as provided for in this subsection (e). At any time and from time to time, Mortgagee may, by written notice to the Tenant under any Lease otherwise subordinate to the lien of this Mortgage, cause such Lease to be made superior to the lien of this Mortgage, subject to and in accordance with the terms of

this paragraph, whether or not any such Lease shall have been entered into after the date hereof. From and after such written notice, the Lease or Leases described therein shall be superior to the lien of this Mortgage and shall not be extinguished by any Foreclosure; provided, however, that the aforesaid subordination shall not apply to, and neither the lien of this Mortgage nor any of Mortgagee's rights under this Mortgage shall be subordinate to, (i) any purchase option or any first refusal, first offer or similar option set forth in any such Lease or entered into in connection therewith, (ii) any extension, renewal or similar option set forth in any such Lease or entered into in connection therewith (unless Mortgagee shall specifically agree to the contrary in writing), (iii) any modifications or amendments of any such Lease (unless Mortgagee shall specifically agree to the contrary in writing), or (iv) any lien, security interest, charge, encumbrance or other interest of any kind (other than the Lease or Leases specifically identified in such notice) in or on the Property (whether superior or subordinate to any such Lease or Leases); provided, further, that the aforesaid subordination shall not affect the priority of Mortgagee's rights under this Mortgage in and to any Compensation and shall not subject Mortgagee or any Subsequent Owner to liability for any act, omission, representation or warranty of Grantor or any other previous landlord under any Lease, to any offsets or defenses which the Tenant under any Lease might have against Grantor or any other previous landlord or to liability for return of any security deposits under any Lease.

(f) At Mortgagee's option, after an Event of Default hereunder beyond any applicable notice and cure period, Grantor shall deposit with Mortgagee or Mortgagee's mortgage loan correspondent (if any) all tenant security deposits or reasonable security (such as a letter of credit) therefore to the extent actually received by Grantor subject to and pursuant to the terms of the Leases with respect to such security deposits or security.

1.14 Assignment of Rents.

(a) The assignment of the Rents and the Security under this Mortgage is intended to be and, to the fullest extent permitted by law, is an absolute and unconditional present assignment of the Rents and the Security, and not merely the grant or other creation of a lien or security interest in or on the Rents and the Security; provided, however, that Grantor shall be permitted and is hereby granted a revocable license, until the occurrence of any Event of Default which continues beyond any applicable notice and cure period, to collect and use and enjoy the Rents as, but not before (except as permitted in Section 1.13(c)), they become due and payable subject to the provisions of any lockbox, escrow, rental collection, cash management, direct pay or similar agreements relating to the Rents now or hereafter in effect; provided further, however, that, if a court of competent jurisdiction shall construe such assignment to be unenforceable or otherwise ineffective as an absolute and unconditional present assignment, then such assignment shall be deemed and construed to be a collateral assignment of the Rents and the Security, creating a lien and security interest therein which shall be deemed to have been perfected upon recording of this Mortgage in the real estate records of the recording jurisdiction in which the Land is located. Neither the existence nor the exercise of such conditional permission shall cause such assignment or Mortgagee's interest in the Rents or the Security to be or to become subordinate to any other assignment by Grantor (whether absolute, conditional or otherwise). The assignment of the Rents and the Security under this Mortgage shall be fully operative without any further action by any person. Upon written notice to Grantor, Mortgagee is hereby irrevocably authorized, at its option, to notify any and all Tenants, any and all Lease Guarantors and any and all other licensees, invitees, guests, customers, occupants and other users of the Property of the aforesaid assignment and the rights of Mortgagee with respect thereto, subject (if applicable) to Grantor's revocable license as described above. Grantor hereby irrevocably consents to the entry upon and taking physical possession of the Property by Mortgagee in connection with the exercise of its rights with respect to the aforesaid assignment upon the occurrence of any of any Event of Default, whether or not any foreclosure or other enforcement action shall have been commenced. No exercise of any such rights shall cure, waive or invalidate any default, any Event of Default which exists beyond any applicable notice and cure period or any act done pursuant to this Mortgage or any of the other Loan Documents.

(b) Upon the occurrence of any of any Event of Default which exists beyond any applicable notice and cure period, Mortgagee shall have the right, with or without taking possession of the Property, to demand, collect, receive and enforce payment of any and all Rents (including any Rents then past due and unpaid) directly from Tenants, Lease Guarantors and other licensees, invitees, guests, customers, occupants and users of the Property or, in the case of any such Rents thereafter paid to Grantor or any other person, from Grantor or such other person. In addition, Mortgagee thereafter shall have the right to collect, hold, return and retain the Security and to give receipts, releases and satisfactions for any such Rents paid to Mortgagee or to any person designated by Mortgagee as provided below and for any Security collected by Mortgagee. Without limiting the generality of the foregoing, at any time upon the occurrence of any Event of Default which exists beyond any applicable notice and cure period, Mortgagee shall have the right to make written demand on any Tenant, any Lease Guarantor or any such other licensee, invitee, guest customer, occupant or user, notifying such person that an Event of Default has occurred and directing such person to make all subsequent payments of Rents (including any Rents then past due and unpaid) directly to Mortgagee or to any person designated by Mortgagee in such demand. Each such written demand shall be sufficient, without the necessity of any further direction or consent from Mortgagee, to warrant and require such Tenant, Lease Guarantor or other licensee, invitee, guest, customer, occupant or user to make all such payments directly to Mortgagee to any such person designated by Mortgagee. All Tenants, Lease Guarantors and other licensees, invitees, guests, customers, occupants and users (i) are hereby irrevocably authorized and directed to rely on and comply with any and all such written demands received by them, and (ii) are hereby irrevocably relieved of any responsibility to make any inquiry regarding the existence of any Event of Default which exists beyond any applicable notice and cure period claimed by Mortgagee or regarding Mortgagee's right to demand, collect, receive and enforce payment of the Rents and to collect, hold, return and retain the Security. After making any such written demand, Mortgagee shall be entitled and is hereby irrevocably authorized, at its option, to enforce payment of the pertinent Rents by appropriate action or proceeding, whether brought in the name of Grantor or otherwise. Any and all amounts so collected by Mortgagee shall be applied to the Indebtedness in such order and manner as Mortgagee shall determine.

(c) Notwithstanding anything contained herein to the contrary, it is the intention of Grantor and Mortgagee that this conveyance in this Section 1.14 creates (i) a presently and immediately effective security interest in all Rent, whether accrued or unaccrued, by means of assignment of the Rent pursuant to this Mortgage, and (ii) a present and absolute assignment of the Leases, and in both cases, Mortgagee's rights to same are not contingent or conditioned upon, and may be exercised without possession of the Property. Notwithstanding anything to the contrary contained herein, Mortgagee is entitled to all the rights and remedies of an assignee as permitted under applicable state law, and this Mortgage shall constitute and serve as a security instrument under Alabama law. Mortgagee shall have the ability to exercise its rights related to the Leases and Rents, in Mortgagee's sole discretion and without prejudice to any other remedy available, as provided in this Mortgage or as otherwise allowed by applicable law.

1.15 Security Agreement and Fixture Filing.

(a) Grantor (as Debtor) hereby grants and assigns to Mortgagee (as Creditor and Secured Party), in order to secure the obligations secured by this Mortgage, a security interest in all personal property and fixtures included within the definition of the term "Property" set forth above, and in any and all other personal property and fixtures now or hereafter constituting part of the Property. All references in this Mortgage to the lien of this Mortgage shall be deemed to refer also to the aforesaid security interest. It is the intention of the parties hereto that this Mortgage shall constitute a security agreement within the meaning of the Uniform Commercial Code as in effect in the State of Alabama, as amended and recodified from time to time (the "UCC"). In addition to all rights, powers, privileges and remedies specified in this Mortgage, Mortgagee shall have all the rights, powers, privileges and remedies of a secured party under the UCC and under other applicable law. To the extent any notice of sale of any such personal property may

be required by law in connection with any exercise of such rights, powers, privileges and remedies, notice of the time and place of any public or private sale given at least ten (10) days in advance thereof shall constitute reasonable notification. Mortgagee shall not be required to make any sale of any such personal property regardless of any notice of sale having been given. Mortgagee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it shall have been so adjourned. Notwithstanding the foregoing, in no event shall Mortgagee be deemed to have accepted any property other than cash in satisfaction of any obligation of Grantor unless Mortgagee shall make an express written election of said remedy under Section 9.620 and 9.621 of the UCC.

(b) To the greatest extent permitted under applicable law, this Mortgage, when filed for record in the real estate records of the recording jurisdiction in which the Land is located, shall be effective, from the date of recording, as a financing statement filed as a fixture filing under the UCC, with respect to all fixtures included within the definition of the term "Property" set forth above. This Mortgage, when so filed for record, also shall be effective, from the date of recording, as a financing statement covering minerals or the like (including oil and gas) to the extent the same constitute as-extracted collateral (as defined in the UCC). A carbon, photographic or other reproduction of this Mortgage or any financing statement relating to this Mortgage (provided the financing statement includes all information required under the UCC) shall be sufficient to be effective 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 rights or priority hereunder.

(c) It is hereby expressly declared and agreed that, to the fullest extent permitted by law, all items of Equipment, all accessions, renewals, substitutions and replacements of and to any such items and all other parts of the Property owned by Grantor are, and at all times and for all purposes shall be deemed to be, part and parcel of the real property encumbered by this Mortgage and appropriated to the use of such real property, whether or not any such item is affixed or annexed to such real property and whether or not any such item is or shall be identified by serial number or otherwise referred to or reflected in any recital or list set forth in this Mortgage or in any financing statement filed or recorded in connection with the transaction of which this Mortgage is a part. Neither anything set forth in this Section nor the filing or recording of any such financing statement in the records for personal property security interests shall be construed as in any way derogating from or otherwise impairing the effectiveness of the aforesaid declaration. The mention in any such financing statement of any particular part of the Property shall not be construed as in any way altering the rights of Mortgagee under this Mortgage with respect to such Property or as in any way altering or otherwise affecting the perfection or priority of the lien of this Mortgage with respect to such Property. Any and all such financing statements are intended to be for the protection of Mortgagee in the event that any court shall determine that the perfection or priority of the lien of this Mortgage with respect to any part of the Property requires the recording or filing of notice in the records for personal property security interests.

1.16 After-Acquired Property. To the fullest extent permitted by and subject to applicable law, the lien of this Mortgage shall attach automatically, without the necessity of any action by Grantor or any other person, to all right, title and interest of Grantor in and to any and all after-acquired property of the character or type included within the definition of the term "Property" set forth above. Grantor shall promptly execute and deliver to Mortgagee such documents and instruments as Mortgagee may reasonably request to confirm such lien. Following the occurrence of an Event of Default, Grantor hereby irrevocably authorizes and appoints Mortgagee as its agent and attorney-in-fact to execute all such documents and instruments on behalf of Grantor, which appointment includes full power of substitution and shall be deemed to be coupled with an interest.

1.17 Further Assurances. Upon Mortgagee's written request, Grantor shall make, execute and deliver to Mortgagee or any other person designated by Mortgagee (or shall cause to be made, executed

and delivered to Mortgagee or any such other person) any and all further mortgages, deeds of trust, assignments, security agreements, financing statements, instruments of further assurance, notices, certificates and other documents and instruments that Mortgagee may consider reasonably necessary to correct any errors in or omissions from any of the Loan Documents or to effectuate, complete, perfect, continue or preserve the obligations of Grantor under or in connection with the Loan Documents, the lien of this Mortgage upon all or any part of the Property or any other rights or interests of Mortgagee under this Mortgage provided that same does not materially increase the obligations of Grantor hereunder or materially decrease the rights of Grantor hereunder. In addition to its other rights, powers, privileges and remedies under this Mortgage, Mortgagee is hereby irrevocably authorized to make, execute and deliver any and all such documents and instruments for and in the name of Grantor subsequent to an Event of Default which exists beyond any applicable notice and cure period. Mortgagee is hereby irrevocably authorized to record, file, re-record or refile, at such times and in such offices and places as Mortgagee may consider necessary or desirable, any or all of the Loan Documents and any or all such other documents and instruments. Following the occurrence of an Event of Default, Grantor hereby irrevocably authorizes and appoints Mortgagee as its agent and attorney-in-fact to take all actions authorized by this Section, which appointment includes full power of substitution and shall be deemed to be coupled with an interest.

1.18 Maintenance of Existence. Grantor shall at all times maintain (a) its existence, franchises, rights and privileges as a limited liability company under the laws of the State of Alabama, and (b) a duly authorized registered agent for service of process in the State of Alabama. Upon Mortgagee's request, Grantor shall provide to Mortgagee satisfactory evidence of Grantor's compliance with the terms of this Section.

1.19 Books and Records.

Grantor shall at all times keep and maintain, or cause to be kept and maintained, complete and accurate books of accounts and records reflecting the results of the Grantor's operation of the Property and any business or other operations conducted in or on the Property by or on behalf of or for the benefit of Grantor.

1.20 Use of Information. Grantor shall not use Mortgagee's name or the name of any person, firm or corporation controlling, controlled by or under common control with Mortgagee in connection with any of Grantor's activities, except as such use may be required by applicable law or regulation of any governmental body, or by any financing institution with which Grantor may be doing business. Mortgagee agrees that it shall not use Grantor's name, the name of any person, firm or corporation controlling, controlled by or under common control with Grantor in connection with any of Mortgagee's activities, except as such use may be required by applicable law or regulation of any governmental body or by any financing institution with which Mortgagee may be doing business and except for any publicity article concerning Grantor's financing of the Property; provided, Grantor hereby consents to Mortgagee's participation, sale (including, but not limited to securitization), assignment, transfer or other disposition (any of such events being referred to as a "Sale"), at any time or times hereafter of all, or any part of, its interest in the Indebtedness and the Loan Documents (provided, however, that in the event of a sale, Grantor shall not be obligated to notify or communicate with more than one party as Mortgagee) and, in connection therewith, hereby consents to Mortgagee's dissemination of any of the foregoing information, on a confidential basis, to Mortgagee's advisers, underwriters and placement agents, as well as rating agencies and prospective purchasers, in connection with a prospective Sale; provided that all such persons to whom Mortgagee proposes to provide any such information shall agree in writing to keep such information confidential and to use it only for the purpose of considering a purchase of Mortgagee's interest in the Indebtedness and the Loan Documents or a portion thereof and in connection with such prospective Sale. Grantor shall provide such cooperation and additional information as Mortgagee may reasonably request in connection with a prospective Sale; provided, that if Mortgagee proposes to sell any interest in the Indebtedness to a person that is not a United States citizen or company, then, as a condition to such Sale,

such person shall provide Grantor with two original signed copies of Internal Revenue Service Form 4224 certifying such person's entitlement to a complete exemption from United States withholding tax.

1.21 Estoppel Certificates. Within ten (10) days after Mortgagee's written request, Grantor shall deliver to Mortgagee a written statement, duly acknowledged, setting forth, the then-outstanding principal of and interest on the Indebtedness, and stating whether or not any offsets, claims or defenses exist against enforcement of any of the Loan Documents or against collection of the Indebtedness and, if any such offsets, claims or defenses are claimed, identifying the same in reasonable detail, or if any default exists under the Loan Documents.

1.22 Expenses and Indemnification.

(a) Subject to the provisions of Section 1.11(b) and Section 1.19(b), Grantor shall pay, when due, and upon Mortgagee's written request shall reimburse Mortgagee for, all reasonable appraisal fees, filing and recording fees, taxes, brokerage fees and commissions resulting from any agreement made by Grantor with the broker to whom such fee or commission is to be paid, abstract and search fees, title insurance fees and premiums, escrow fees, reasonable attorneys' fees, court costs, fees of inspecting architect(s) and engineer(s) and all other costs and expenses of every character that have been incurred by Mortgagee, or that may be incurred by Mortgagee after the date hereof, in connection with any of the following: (i) issuance of Mortgagee's commitment to make the Loan; (ii) preparation, execution and recording of the Loan Documents; (iii) funding of the Loan; (iv) enforcement of this Mortgage or any of the other Loan Documents after the occurrence of any Event of Default or any state of facts which, with notice or the passage of time, or both, would constitute an Event of Default if not cured or corrected, whether or not any suit or other action shall be commenced or undertaken; (v) communications and negotiations with Grantor or any Guarantor, or with their respective officers, employees, agents, contractors, attorneys or other representatives, concerning any such occurrence; (vi) preparation for, and actions taken in connection with, the prevention or cure of any such occurrence; (vii) enforcement or attempted enforcement of this Mortgage or any of the other Loan Documents in accordance with the terms hereof; (viii) court or administrative proceedings of any kind to which Mortgagee may become a party, whether as plaintiff, defendant or otherwise, by reason of the Indebtedness or any of the Loan Documents (including all reasonable attorneys' fees, court costs and other actual out-of-pocket expenses incurred in consultation, litigation and bankruptcy or administrative proceedings and all appeals therefrom); (ix) defending and upholding the lien of this Mortgage or otherwise defending or asserting any rights or claims of Mortgagee under this Mortgage or under any of the other Loan Documents; (x) preparation for, and actions taken in connection with, Mortgagee's taking possession of all or any part of the Property; (xi) any prepayment or proposed prepayment of all or any part of the Indebtedness as contemplated in the Note; (xii) any refinancing or payment of the entire Indebtedness or any proposed refinancing or payment of the entire Indebtedness as contemplated in the Note; (xiii) any actual or proposed release, satisfaction, discharge or other extinguishment of this Mortgage or any of the other Loan Documents; (xiv) any transfer or proposed transfer of all or any part of the Property in lieu of foreclosure; or (xv) any consent or approval (whether conditional or unconditional) or any withholding of consent or approval to any matter for which Mortgagee's consent or approval is required pursuant to any of the Loan Documents or pursuant to any Governmental Requirement or judicial decision.

(b) Grantor shall indemnify and hold Mortgagee harmless from and against, and shall reimburse Mortgagee for, any and all claims, demands, liabilities, actual losses, damages, judgments, penalties, reasonable actual out-of-pocket costs and expenses (including reasonable attorneys' fees) that may be imposed upon, asserted against, or incurred or paid by Mortgagee by reason of, on account of or in connection with any or all of the following: (i) any bodily injury, death or property damage occurring in or on or in the vicinity of the Property through any cause whatsoever; (ii) any transaction, suit, action or proceeding arising out of or in any way connected with the ownership, use, operation, maintenance or repair of the Property; (iii) the exercise of any rights, powers, privileges or remedies of Mortgagee under this

Mortgage or any of the other Loan Documents (including any actions contemplated by Section 2.3); (iv) the breach of any warranty or representation set forth in any of the Loan Documents; and (v) the breach of any warranty or representation set forth in Section 1.2(b), any violation or any alleged violation of any Environmental Law, any proceedings relating to any such violation or alleged violation of any Environmental Law, the presence of any Hazardous Substances in, on, under or about all or any part of the Property, any actual or threatened release, discharge, spillage, seepage or filtration of any Hazardous Substances in, on, under, about or from the Property, the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use or disposal of any Hazardous Substances in, on, under, about or from all or any part of the Property, or any threatened, proposed or actual cleanup or other protective, removal or remedial action relating to any Hazardous Substances, whether pursuant to any Environmental Law or otherwise. Notwithstanding anything to the contrary contained herein, the obligations and liability of Grantor with respect to the matters set forth in clause (v) above shall not be subject to or limited by any nonrecourse or exculpation provisions set forth in this Mortgage or any of the other Loan Documents, and said obligations and liability survive any Foreclosure and any payment, release, satisfaction, discharge or other extinguishment of this Mortgage or the Indebtedness. The obligations and liability of Grantor with respect to said matters shall run in favor of and benefit Mortgagee and any affiliate of Mortgagee which may succeed to Mortgagee's position under this Mortgage or which may acquire all or any part of the Property. The obligations and liability of Grantor under this Section 1.22 are in addition to, and not in lieu or a restatement of, any of Grantor's obligations or liability (i) that certain Indemnification Agreement dated as of the date hereof by Grantor and Guarantors in favor of Mortgagee (the "**Indemnification Agreement**") and (ii) that those certain Guaranties (as such term is defined in the Loan Agreement) executed by Guarantors in favor of Mortgagee. Notwithstanding anything to the contrary contained herein, Grantor shall not be required to indemnify Mortgagee under this Mortgage to the extent that the applicable loss, claim, demand or damage arises: (i) solely from the gross negligence or willful misconduct of any party indemnified herein; or (ii) any acts, events or circumstances that occur following the date on which Mortgagee (or its nominee or designee) or a person that is not an affiliate of Borrower or Guarantor acquires title to and possession of the Property, whether through foreclosure, or the delivery of a deed-in-lieu of foreclosure, and is not otherwise caused by the Borrower, Guarantor or their affiliates, agents employees or contractors

(c) All reasonable costs, expenses and other obligation required to be paid or reimbursed by Grantor pursuant to this Section, and all other indemnification obligations of Grantor under this Mortgage, shall bear interest at the Default Rate from the date the amount thereof shall have been requested in writing by Mortgagee until the date of such payment or reimbursement by Grantor.

1.23 Security for Advances. All amounts advanced by Mortgagee pursuant to this Mortgage, all amounts otherwise advanced by Mortgagee to protect the security of this Mortgage, all costs, expenses and liabilities reasonably incurred by Mortgagee and reimbursable or payable by Grantor pursuant to this Mortgage and all indemnification obligations of Grantor under this Mortgage, together with interest thereon as provided in this Mortgage or as otherwise provided by law, shall be deemed to be a part of the Indebtedness and, to the fullest extent permitted by law, shall be secured by this Mortgage equally with all other portions of the Indebtedness.

1.24 Revival. If all or any part of any payment on account of the Indebtedness shall be invalidated, set aside, declared or found to be void or voidable or required to be refunded or otherwise returned to or for the benefit of Grantor or any trustee, custodian, receiver, conservator, master, liquidator or other person (whether pursuant to any Insolvency Law, any other law, any equitable cause or otherwise), then, to the fullest extent permitted by law, but only to the extent of such invalidation, set aside, voidness, voidableness or required refund or return, (a) neither the Indebtedness nor the lien of this Mortgage shall be deemed to have been paid, cancelled, extinguished, released, satisfied or discharged, (b) the Indebtedness and the lien of this Mortgage shall be immediately and automatically revived without the necessity of any action by any person, and (c) the lien of this Mortgage thereafter shall continue in full force and effect in

accordance with the terms hereof as if it had never been paid, cancelled, extinguished, released, satisfied or discharged.

1.25 Required Notices.

(a) Grantor shall give written notice to Mortgagee of any of the following occurrences, in each case promptly after the occurrence thereof:

(i) Grantor's receipt of any written notice from any governmental authority or instrumentality concerning (A) lack of compliance of the Property, or any business or other operations conducted in or on the Property, with any Governmental Requirement or with the conditions or other requirements of any license, permit, approval or authorization (including notice of any violation or alleged violation of any Environmental Law and notice of any threatened, proposed or actual cleanup or other protective, removal or remedial action relating to any Hazardous Substances, whether pursuant to any Environmental Law or otherwise), or (B) the actual or threatened revocation or suspension of, any license, permit, approval or authorization relating to the Property or any business or other operations conducted, or proposed to be conducted, in or on the Property;

(ii) Grantor's receipt of any written notice concerning lack of compliance of all or any part of the Property, or any business or other operations conducted in or on the Property, with any covenant, agreement or other arrangement restricting or limiting the use, occupancy, operation, development or disposition of the Property;

(iii) Intentionally Omitted;

(iv) Grantor's receipt of any written notice from the holder or grantee of any lien, security interest, charge or encumbrance on all or any part of the Property, concerning any default or any other material matter in respect of such Lease, lien, security interest, charge or encumbrance;

(v) Grantor's receipt of any written notice concerning (A) any contemplated, threatened or pending cancellation of any insurance coverage maintained by Grantor relating to the Property, (B) any refusal by any insurance company to provide or continue any insurance coverage relating to the Property, or (C) any increase in the cost of any insurance coverage relating to the Property due to the condition of the Property or due to any business or other operations conducted, or proposed to be conducted, in or on the Property,;

(vi) commencement of any judicial or administrative proceedings by or against, and which reasonably can be expected to have a material adverse effect on, Grantor, any Guarantor or the Property;

(vii) commencement by any creditor of any action or proceeding for default under the terms of any loan or other extension of credit to Grantor or any Guarantor;

(viii) any change in the name of Grantor or any Guarantor or in the location of Grantor's or any Guarantor's chief executive office, principal place of business or residence; or

(ix) any material change in the occupancy of the Building not contemplated under the Loan Agreement.

(b) Grantor also shall give written notice to Mortgagee of any other occurrence requiring the giving of notice to Mortgagee pursuant to this Mortgage or pursuant to any of the other Loan

Documents. Each notice to Mortgagee pursuant to this Section shall be accompanied by accurate and complete copies of any and all written notices received by Grantor which are the subject of such notice to Mortgagee (whether or not Mortgagee may have received, or may be entitled to receive, such notice directly from the person giving such notice to Grantor).

1.26 Single Purpose Nature of Grantor. Grantor shall at all times that the Loan is outstanding company be in compliance with the single purpose entity covenants set forth in Section 15.1 of the Loan Agreement.

ARTICLE 2

DEFAULTS AND REMEDIES

2.1 Event of Default. As used in this Mortgage, the term “**Event of Default**” shall have the same meaning as set forth in Article 20 of the Loan Agreement. The use of the phrases “upon the occurrence of an Event of Default,” “Event of Default exists,” “Event of Default has occurred,” “Event of Default shall have occurred and remain uncured” or similar phrases in this Mortgage or the other Loan Documents are intended to mean that an Event of Default will only cease to exist following acceptance by Mortgagee (acceptance or rejection to be in Mortgagee’s discretion, unless Mortgagee is required by applicable law to accept such cure) of a cure of such Event of Default (with any such acceptance of a cure of an Event of Default to be evidenced by a written reinstatement confirmation issued by Mortgagee, unless Mortgagee is required by applicable law to accept such cure), and use of any of the foregoing phrases does not mean that Grantor, any Guarantor or any other person has the right to any grace periods or cure rights in addition to those specified HEREIN following the occurrence of an Event of Default or that Mortgagee is obligated under any circumstance (except where Mortgagee is required by applicable law to accept such cure) to accept any cure offered by Grantor, any Guarantor or any other Person following the occurrence of an Event of Default except as otherwise expressly provided herein. Notwithstanding anything to the contrary contained herein, nothing shall be deemed to restrict or limit in any way Grantor’s right to contest in good faith the permissibility of the rights or remedies being exercised under applicable law.

2.2 Acceleration of Maturity. At any time during the continuance of any Event of Default, Mortgagee, at its option and without demand, may declare the outstanding Indebtedness (or, at Mortgagee’s option, any part of the outstanding Indebtedness that may be designated by Mortgagee) to be immediately due and payable. Upon such declaration, the Indebtedness (or such part thereof) shall become immediately due and payable. To exercise this option, Mortgagee may invoke any remedies permitted by law in accordance with the terms of this Mortgage.

2.3 Enforcement.

(a) Subject to applicable law, at any time after the occurrence of any Event of Default, Mortgagee may proceed by any appropriate judicial or non-judicial action (provided that same is expressly permitted under applicable law in the State that the Property is located in) or proceeding to (i) enforce payment of all or any part of the Indebtedness in accordance with the Loan Documents, (ii) enforce performance of any provision of this Mortgage or any of the other Loan Documents, (iii) foreclose this Mortgage and sell or cause the sale of the Property, as an entirety or in separate parts, pursuant to the judgment, order, writ of execution or decree of any court of competent jurisdiction, (iv) to the fullest extent permitted by law, pursue the partial foreclosure of this Mortgage for any part of the Indebtedness then due and payable, subject to the continuing encumbrance of this Mortgage as security for the balance of the Indebtedness not then due, and (v) pursue any other rights, powers, privileges and remedies available to Mortgagee, at law or in equity, in connection with the Indebtedness, the Property or any other security for the Indebtedness, including, without limitation, any and all of the remedies granted Mortgagee as a secured party under the UCC. Mortgagee may pursue any or all such actions or proceedings separately or

concurrently in accordance with applicable law and in such order as Mortgagee may elect, either with or without entry or taking possession and whether or not all or any part of the Indebtedness shall have been declared to be immediately due and payable or shall otherwise be due. Mortgagee may pursue any and all such actions or proceedings without prejudice to Mortgagee's right thereafter to foreclose this Mortgage and without prejudice to the rights of Mortgagee to proceed by any other action or proceeding to enforce any rights, powers, privileges or remedies with respect to the Indebtedness, the Property or any other security for the Indebtedness, whether or not the basis for any such subsequent action or proceeding shall be a default or an Event of Default existing at the time such earlier action or proceeding was commenced.

(b) Intentionally omitted.

(c) Intentionally omitted.

(d) Any Foreclosure may, at Mortgagee's option, be subject to any or all Leases and the rights of Tenants thereunder. No failure to make any Tenant a defendant in any foreclosure proceedings or to foreclose or otherwise terminate any Lease and the rights of any Tenant in connection with any Foreclosure shall be, or be asserted to be, a defense or hindrance to any Foreclosure, any foreclosure proceeding or to any proceeding seeking collection of all or any part of the Indebtedness (including any deficiency remaining unpaid after completion of any Foreclosure).

2.4 Proceeds of Foreclosure. Unless otherwise required by law, from the proceeds of any Foreclosure, Mortgagee shall pay (a) all reasonable out-of-pocket costs and expenses of sale, including reasonable attorneys' fees, advertising costs, an auctioneer's allowance, reasonable and customary Mortgagee's fee, costs of title searches, the expense of correcting any title irregularities, inspection fees and appraisal costs; and (b) all currently payable Impositions and Insurance Premiums. Mortgagee shall pay the balance of said proceeds to Mortgagee to the extent required to pay the entire then-outstanding Indebtedness. Any remaining surplus shall be paid to Grantor or to any other person entitled to such surplus as determined by a court of competent jurisdiction.

2.5 Right To Enter and Take Possession.

(a) At any time following the occurrence of any Event of Default, whether or not foreclosure proceedings shall have been instituted, Mortgagee, to the fullest extent permitted by law, may, subject to the rights of tenants expressly set forth in any Subordination, Non-Disturbance and Attornment Agreement with Mortgagee, enter and take possession of all or any part of the Property, may exclude Grantor and its members, officers, employees, agents, contractors, attorneys and other representatives therefrom and may have joint access with Grantor to the books, papers and accounts of Grantor and of any manager of the Property. Upon Mortgagee's request at any time following the occurrence of any Event of Default, Grantor shall peaceably and quietly vacate, surrender and deliver possession of the Property (or any part of the Property that may be designated by Mortgagee) to Mortgagee, subject to the rights of tenants. If Grantor shall not vacate, surrender and deliver possession of the Property (or such part of the Property) to Mortgagee as provided above, then, without limiting any other right to enter and take possession of the Property (or such part of the Property), Mortgagee may resort to any and all legal and equitable remedies required to evict and dispossess Grantor therefrom (including one or more summary proceedings or actions for forcible entry and detainer, trespass to try title or restitution, if permitted under applicable law), and Mortgagee may obtain a judgment, order, writ of execution or decree of any court of competent jurisdiction conferring on Mortgagee the right to immediate possession, subject to the rights of tenants, and requiring Grantor to immediately vacate, surrender and deliver possession of the Property (or such part of the Property) to Mortgagee, subject to the rights of tenants. Grantor hereby specifically and irrevocably consents to the entry of any such judgment, order, writ of execution or decree. Upon Mortgagee's request, Grantor shall pay to Mortgagee, or to any other person that Mortgagee may designate, all reasonable out-

of-pocket costs, expenses and liabilities (including reasonable attorneys' fees) incurred by Mortgagee in connection with any such failure to vacate, surrender and deliver possession or in connection with any such judgment, order, writ of execution or decree or the exercise of any such remedies, together with interest thereon at the Default Rate from the date reimbursement is requested in writing by Mortgagee until the date so paid to, or as directed by, Mortgagee. Mortgagee acknowledges that at any time following the delivery of possession by Grantor to any tenant under a written Lease for the Property (which Lease shall be subject to the requirements of the Loan Agreement), Mortgagee's right to enter and take possession of all or any part of the Property granted under this Mortgage shall be subject to the rights of the tenants at the Property afforded to such tenant under any Subordination, Non-Disturbance and Attornment Agreement, or any other written agreement, entered into by and between such tenant and Mortgagee.

(b) On the first day of each month after any such entry into possession, or after the appointment of any receiver as provided below, Grantor shall pay to Mortgagee or to such receiver (as the case may be), in advance, a use and occupancy charge equal to the fair and reasonable rental value for that month of any part of the Property then being occupied by Grantor other than pursuant to any Lease (including any master lease) entered into as permitted by this Mortgage. If Grantor shall fail to make any such payment as provided above, then, upon request by Mortgagee or by such receiver (as the case may be), Grantor shall vacate, surrender and deliver possession of such part of the Property to Mortgagee or to such receiver (as the case may be), subject to the rights of tenants, and, to the fullest extent permitted by law, Grantor may be evicted and dispossessed therefrom by summary proceedings or otherwise.

(c) After any such entry into possession, Mortgagee, acting in Grantor's name or otherwise, may hold, store, use, operate, manage and control the Property (or any part of the Property which then is in the possession of Mortgagee) and may conduct the business and operations thereof. In doing so, Mortgagee may:

(i) take and possess all documents, books, records, papers and accounts of Grantor or the then owner of the Property;

(ii) carry out any and all necessary and desirable maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements of or to the Property (or such part of the Property) to the extent not being timely performed by Tenant;

(iii) purchase or otherwise acquire and install in or on the Property (or such part of the Property) additional fixtures, personal property and other property of the type encumbered by this Mortgage;

(iv) insure the Property or keep the Property insured to the extent not being maintained by Tenant in accordance with the requirements of the Loan Agreement;

(v) manage, operate and exercise all rights and powers of Grantor with respect to the Property (or such part of the Property) and the management and operation thereof (including the right to enter into Leases, to cancel, enforce or modify Leases, to evict Tenants by summary proceedings or otherwise and to take other appropriate steps to enforce Leases);

(vi) enter into agreements with others to exercise the rights and powers of Mortgagee under this Mortgage;

(vii) collect and receive all Rents (including those past due as well as those accruing thereafter), and apply the money so received, in such priority as Mortgagee may determine, to pay (1) the interest, principal and other amounts due and payable in respect of the Indebtedness or otherwise payable pursuant to any of the Loan Documents, (2) the deposits payable under this

Mortgage for Impositions and Insurance Premiums, (3) the reasonable out-of-pocket cost of insurance, Impositions and other expenses of holding, storing, using, operating, managing, controlling, maintaining, repairing, altering and improving the Property (including any leasing commissions and rental collecting commissions payable to any agent, contractor or other representative of Mortgagee) to the extent not being timely performed by Tenant, (4) the actual reasonable out-of-pocket compensation, expenses and disbursements of the agents, contractors, attorneys and other representatives of Mortgagee, and (5) amounts advanced for any purpose recognized under this paragraph (c) or otherwise permitted by this Mortgage or at law.

(d) In the event of any such entry into possession, Mortgagee shall be liable to account only for Rents actually received by Mortgagee while in possession of the Property. In the event of any foreclosure, subject to applicable law, Mortgagee may remain in possession of all or any part of the Property until the foreclosure sale and thereafter during any period of redemption. In the absence of any foreclosure, subject to applicable law, Mortgagee may remain in possession of all or any part of the Property as long as there exists an Event of Default that remains uncured by Grantor. Subject to applicable law, the same right of taking possession shall exist during the continuance of any subsequent Event of Default. Subject to applicable law, Mortgagee shall not be obligated, by virtue of this Section or by virtue of any actions contemplated by this Mortgage or any of the other Loan Documents, to perform or discharge any obligation, duty or liability of Grantor under any Lease or other agreement relating to all or any part of the Property or under any Governmental Requirement relating to the Property. Mortgagee shall not incur any liability for, nor shall Grantor assert any claim or set off as a result of, any acts or omissions of Mortgagee, or its officers, employees, agents, contractors, attorneys or other representatives, while in possession of all or any part of the Property (except for damages directly caused by Mortgagee's or any of its affiliate's and/or agent's own gross negligence or intentional wrongful acts). Grantor hereby expressly and irrevocably waives, releases, discharges and relinquishes all such liabilities, claims and rights of set off, to the fullest extent permitted by applicable law.

(e) Upon Mortgagee's request, Grantor shall pay to Mortgagee, or to any other person that Mortgagee may designate, all reasonable actual out-of-pocket costs, expenses and liabilities (including reasonable attorneys' fees) incurred by Mortgagee in connection with the holding, storage, use, operation, management, control, maintenance, repair, alteration or improvement of all or any part of the Property (except to the extent such costs, expenses and liabilities shall have been paid out of collections from the Property as provided above), together with interest thereon at the Default Rate from the date incurred by Mortgagee until the date so paid to, or as directed by, Mortgagee.

2.6 Appointment of Receiver.

(a) At any time during the continuance of any Event of Default (either before or after any foreclosure or any sale in connection therewith), Mortgagee, to the fullest extent permitted by law and without regard to the value, adequacy or occupancy of the Property (whether as a homestead or otherwise) or the solvency of Grantor, Principal or any Guarantor, shall be entitled as a matter of right and upon prior written notice, if it so elects, to the appointment of a receiver to enter upon and take possession of the Property, collect the Rents and apply the Rents so collected in accordance with the provisions of this Mortgage or applicable law. To the fullest extent permitted by law, the receiver's powers shall continue during the pendency of any foreclosure proceedings and throughout any statutory period of redemption, whether there be a redemption or not. Grantor hereby specifically and irrevocably consents to such appointment. The receiver shall have all rights and powers permitted by the laws of the State of Alabama (including, to the fullest extent permitted by law and this Mortgage, all rights and powers for the protection, possession, management and operation of the Property that an absolute owner would have) and such other rights and powers as the court making such appointment shall confer. The receiver shall be liable to account only for Rents actually received by the receiver. Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled to maintain possession and control of any cash, deposits or

instruments held by or for Mortgagee, as pledgee or depository, at the time of such appointment or payable or deliverable to Mortgagee, as pledgee or depository, from time to time pursuant to this Mortgage or any of the other Loan Documents.

(b) Upon Mortgagee's request, Grantor shall pay, or reimburse Mortgagee and any such receiver for, all reasonable and actual out-of-pocket costs, expenses and liabilities incurred by Mortgagee or such receiver in connection with the appointment of such receiver and the exercise of the rights and powers of such receiver (including reasonable attorneys' fees, receivers' fees, agents' compensation and the reasonable fees of any manager retained by such receiver), except to the extent such costs, expenses and liabilities shall have been paid out of collections from the Property, together with interest thereon at the Default Rate from the date paid by Mortgagee or such receiver (as the case may be) until the date of such reimbursement.

2.7 Performance of Defaulted Obligations. If Grantor shall fail to make any payment, or perform any obligation of Grantor under this Mortgage, or any of the other Loan Documents, following the expiration of all applicable notice, grace and/or cure periods, if any, and if none are provided within ten (10) days after notice from Lender to Borrower of such failure, then, upon notice, Mortgagee may, but shall not be obligated to, make any payment or perform any obligation (in Grantor's name or otherwise) in such manner and to such extent as Mortgagee may deem reasonably necessary under the circumstances to preserve or protect Mortgagee's rights and interests under the Loan Documents, specifically including, but not limited to, the value and condition of any collateral. If Grantor shall fail to perform any other obligation of Grantor under this Mortgage or any of the other Loan Documents, following the expiration of all applicable notice, grace and/or cure periods, if any, then, upon notice, Mortgagee may, but shall not be obligated to, perform any obligation (in Grantor's name or otherwise) in such manner and to such extent as Mortgagee may deem reasonably necessary or appropriate under the circumstances to preserve or protect Mortgagee's rights and interests under the Loan Documents, specifically including, but not limited to, the value and condition of any collateral. Mortgagee shall be subrogated to all rights against Grantor of the person or persons benefiting from such payment or performance, as permitted under applicable law. No such payment or performance shall (a) release Grantor from any obligation under any of the Loan Documents, (b) cure, waive or invalidate any obligation, any Event of Default or any breach or default by Grantor or any Guarantor under any of the Loan Documents, or (c) waive or relinquish any right, power, privilege or remedy of Mortgagee under or in connection with any of the Loan Documents. Upon Mortgagee's request, Grantor shall pay, or reimburse Mortgagee for, all reasonable actual out-of-pocket expenditures (including reasonable attorneys' fees) made or incurred by Mortgagee in making any such payment or performing any such obligation, together with interest thereon at the Default Rate from the date reimbursement is requested by Mortgagee until the date of such reimbursement. Mortgagee is hereby irrevocably authorized, to enter upon, and to authorize others to enter upon, the Property for the purpose of performing any such obligation, without thereby becoming liable to Grantor or to any person in possession holding under Grantor.

2.8 Waivers of Certain Rights. Grantor agrees, to the fullest extent permitted by law, that neither Grantor nor any person at any time claiming through or under Grantor, shall set up, claim or seek to take advantage of any law now or hereafter in force pertaining to the rights of sureties or providing for any appraisalment, valuation, stay, notice of election to accelerate maturity or to declare the Indebtedness due, extension, redemption, moratorium, homestead or exemption from execution, levy or sale, in order to prevent or hinder the foreclosure of this Mortgage during the continuance of any Event of Default, the final and absolute sale of all or any part of the Property, or any interest therein, or the final and absolute putting into possession thereof, immediately after any such sale, of the purchaser or purchasers at such sale or the enforcement of any other rights, powers, privileges or remedies of Mortgagee under this Mortgage or under any of the other Loan Documents. Grantor, for itself and for any and all persons who may at any time claim through or under Grantor hereby irrevocably waives and releases, to the fullest extent permitted by law, all benefit of any and all such laws, any and all rights of redemption from sale pursuant to any judgment, order

or decree of foreclosure of this Mortgage or any writ of execution relating to the Indebtedness (including any equity of redemption and any statutory right of redemption), any and all dower, curtesy and homestead rights, and any and all right to have the assets constituting the Property or any other security for the Indebtedness marshaled upon any foreclosure or other enforcement of this Mortgage or any of the other Loan Documents. Mortgagee shall not be required to (i) release any part of the Property or any other security for the Indebtedness or be prevented from foreclosing this Mortgage or enforcing any of the other Loan Documents unless the Indebtedness shall have been fully, finally and indefeasibly paid and satisfied in accordance with the Loan Documents, (ii) accept any part or parts of the Property or any other security for the Indebtedness in satisfaction of all or any part of the Indebtedness, or (iii) accept any apportionment of the Indebtedness to or among any part or parts of the Property or any other security for the Indebtedness. If any law now in force of which Grantor might take advantage despite this Section shall be repealed or shall cease to be in force after the date hereof, then such law shall not thereafter be deemed to preclude the application of this Section.

2.9 Suits To Protect Property. Mortgagee is hereby irrevocably authorized by Grantor, at Mortgagee's option, to institute and maintain any and all suits and proceedings that Mortgagee may deem reasonably necessary (a) to prevent any material impairment of the Property or the security of this Mortgage by any unlawful acts or omissions, (b) to prevent the occurrence or continuance of any violation of this Mortgage or of any of the other Loan Documents, (c) to foreclose this Mortgage (after the occurrence of any Event of Default), (d) to preserve and protect Mortgagee's interests in the Property, and (e) to restrain the enforcement of, or compliance with, any Governmental Requirement that may be unconstitutional or otherwise invalid, if such enforcement or compliance might (in Mortgagee's judgment) impair the Property or the security of this Mortgage or be prejudicial to Mortgagee's interests.

2.10 Proofs of Claim. In the event of any bankruptcy, reorganization, arrangement, composition, readjustment, liquidation, dissolution, insolvency, receivership, conservatorship or other case or proceeding affecting Grantor, Principal or any Guarantor, or any of their respective creditors or properties, Mortgagee may, to the fullest extent permitted by law, file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such case or proceeding for the entire Indebtedness outstanding as of the institution of such case or proceeding (or for any part of such Indebtedness that may be designated by Mortgagee) and for any additional amounts that may thereafter become due and payable in respect of the Indebtedness.

2.11 No Waiver.

(a) No failure or delay of or by Mortgagee to insist upon strict performance of any obligation of Grantor, Principal or any Guarantor under or in connection with this Mortgage or any of the other Loan Documents or to exercise any right, power, privilege or remedy under or in connection with this Mortgage or any of the other Loan Documents shall waive, exhaust or impair any such obligation or any such right, power, privilege or remedy. Nor shall any such failure or delay be construed to be a waiver of, or acquiescence in or to, any Event of Default or any breach or default by Grantor or any Guarantor under this Mortgage or any of the other Loan Documents. Notwithstanding any such failure or delay, Mortgagee thereafter shall have the right, from time to time and as often as may be deemed advisable by Mortgagee, to insist upon and enforce strict performance of any and all obligations of Grantor or any Guarantor under or in connection with this Mortgage or any of the other Loan Documents.

(b) No waiver of any Event of Default or of any breach or default by Grantor or any Guarantor under this Mortgage or any of the other Loan Documents shall extend to or affect any subsequent Event of Default, breach or default or any other then-existing Event of Default, breach or default. Nor shall any such waiver impair any rights, powers, privileges or remedies available to Mortgagee after the occurrence of any Event of Default or of any breach or default. After the occurrence of any Event of Default or of any such breach or default (whether or not the Indebtedness or any part thereof shall have been

declared to be immediately due and payable), Mortgagee may accept payments of amounts owing in respect of the Indebtedness, and no such acceptance shall waive any such Event of Default, breach or default or result in any stay or reversal of any acceleration of maturity or in any forgiveness of all or any part of the Indebtedness, unless Mortgagee expressly and specifically agrees to the contrary in writing.

2.12 Remedies Cumulative. No right, power, privilege or remedy now or hereafter available to Mortgagee or any receiver under or in connection with this Mortgage or any of the other Loan Documents (whether or not herein or therein specified) or any law or judicial decision is or shall be exclusive of any other right, power, privilege or remedy (whether or not herein or therein specified), all of which shall be cumulative, concurrent and in addition to each and every other right, power, privilege and remedy now or hereafter available under or in connection with this Mortgage. Each and every such right, power, privilege and remedy may be exercised prior to, simultaneously with or subsequent to any other right, power, privilege or remedy and as often as occasion therefor may arise. No single or partial exercise of any such right, power, privilege or remedy shall preclude any other or further exercise of any such right, power, privilege or remedy. No act of Mortgagee shall be construed as an election to proceed under any one provision of this Mortgage or of any applicable statute or other law to the exclusion of any other such provision, statute or other law.

2.13 Discontinuance of Proceedings. If Mortgagee shall exercise any right, power, privilege or remedy available under or in connection with any of the Loan Documents or under any law or judicial decision, and if such exercise and any related proceedings shall be discontinued or abandoned for any reason, or if any such proceedings shall result in a final determination adverse to Mortgagee, then, to the fullest extent permitted by law, Grantor, Mortgagee, and any Guarantor thereafter shall be restored to their respective former positions and to their respective rights, powers, privileges and remedies under the Loan Documents or otherwise relating to the Indebtedness, the Property or any other security for the Indebtedness, and all rights, powers, privileges and remedies of Mortgagee shall continue to be available as if no such exercise and no such proceedings had occurred.

2.14 Additional Security and Guaranty. If Mortgagee or any trustee or agent for Mortgagee at any time holds additional security for, or any guaranty of, all or any part of the Indebtedness, then Mortgagee or such trustee or agent (acting at Mortgagee's request) may foreclose such security or otherwise enforce its rights, powers, privileges and remedies with respect to, and realize upon, such security or such guaranty (as the case may be), either before or concurrently with or after a foreclosure or other enforcement of this Mortgage or of any of the other Loan Documents, without being deemed to have waived any rights, benefits, liens or security interests evidenced by or arising under or in connection with this Mortgage or any of the other Loan Documents and without being deemed to have made an election thereby or to have accepted the benefits of such guaranty or such additional security (or the proceeds thereof) in full satisfaction and settlement of the Indebtedness and of Mortgagee's or such trustee's or agent's rights with respect thereto. No judgment, order, writ of execution or decree with respect to the Indebtedness or with respect to any such guaranty or security, whether rendered in the State of Alabama or elsewhere, shall in any manner affect the security of this Mortgage, and any deficiency or other debt represented by any such judgment, order, writ of execution or decree shall, to the fullest extent permitted by law, be secured by this Mortgage to the same extent that the Indebtedness shall have been secured by this Mortgage prior to the rendering of such judgment, order, writ of execution or decree. Grantor, for itself and for any and all persons who may at any time claim through or under Grantor or who hereafter may otherwise acquire any interest in or title to all or any part of the Property or any other security for the Indebtedness, hereby irrevocably waives and releases, to the fullest extent permitted by law, all benefit of any and all laws that would limit or prohibit the effectiveness of anything set forth in this Section.

2.15 Default Rate. During the continuance of any Event of Default, the principal portion of the Indebtedness shall, at Mortgagee's option, bear interest at the Default Rate set forth in the Note (the "Default Rate").

2.16 WAIVER OF ANTI-DEFICIENCY STATUTES. TO THE EXTENT PERMITTED BY LAW, GRANTOR HEREBY WAIVES ALL RIGHTS THEY MAY HAVE UNDER 12 O.S. § 686 (AS THE SAME MAY BE AMENDED FROM TIME TO TIME).

ARTICLE 3

TRANSFER OR FURTHER ENCUMBRANCE OF PROPERTY

3.1 Option to Accelerate; Consent of Mortgagee.

(a) Except as otherwise permitted in accordance with this Section 3.1 or pursuant to the terms of the Loan Agreement, in the event of (i) any sale or transfer of Grantor's interest in the Property, in whole or in part or the execution of an installment sales contract pursuant to which buyer take possession and control of the Property but title thereto does not pass to the buyer until performance and satisfaction of future covenants and conditions, or (ii) any change, directly or indirectly, in the ownership, form of business association or composition of Grantor, or (iii) any financing, other than the Loan, secured by all or any portion of the Property or any beneficial interest in the Property, or (iv) any change in the nature of the Property's use in whole or in part, or any material structural alteration of the Property or any recording of a condominium declaration affecting the Property, then, at Mortgagee's option, Mortgagee may declare the Indebtedness to be immediately due and payable, and, upon such declaration, the Indebtedness shall be immediately due and payable upon demand. Grantor covenants and agrees that it shall not, without the prior written consent of Mortgagee, take any of the actions, or suffer any of the events, that would be a cause for declaring the Indebtedness (including any applicable Make Whole Amount or Prepayment Premium, each as defined in the Note) to be immediately due and payable pursuant to this Section and any such actions shall be construed as an Event of Default.

(b) Except as provided for in the Loan Agreement, Mortgagee may give, withhold or condition any consent contemplated by paragraph (a) of this Section, for any reason or for no reason, in Mortgagee's sole, absolute and unlimited discretion. Without limiting the generality of the immediately preceding sentence, Mortgagee specifically reserves the right to condition its consent upon such matters as Mortgagee may deem appropriate, including (i) Mortgagee's approval of the creditworthiness, financial condition and management ability of the purchaser, transferee, lessee, pledgee or assignee, (ii) modification of any or all of the Loan Documents in any manner that Mortgagee may deem appropriate (which may include, among other things, an increase in the interest rate then in effect under the Note or the maturity date thereof), (iii) assumption of the obligations and liabilities of Grantor under any or all of the Loan Documents by the purchaser, transferee, lessee, pledgee or assignee, (iv) receipt of satisfactory guaranties of all or any part of the Indebtedness, (v) receipt of satisfactory additional collateral, and (vi) payment to Mortgagee of an assumption fee in such amount as Mortgagee may deem appropriate.

3.2 Subsequent Owner. Each purchaser, transferee, lessee, pledgee and assignee referred to in Section 3.1 shall be deemed to have assumed and agreed, to the extent that its seller, transferor, lessor or pledgor was liable, to pay the Indebtedness and to have assumed and agreed to be bound by and to keep, perform, observe and comply with all provisions required to be kept, performed, observed and complied with by Grantor pursuant to this Mortgage (including the terms of this Article), unless Mortgagee shall specifically agree to the contrary in writing. Without limiting the generality of the immediately preceding sentence, each such purchaser, transferee, lessee, pledgee and assignee shall be deemed to have made and agreed to each waiver, consent, authorization, direction and appointment made by and agreed to by Grantor pursuant to this Mortgage. If ownership of all or any part of the Property shall become vested in any person other than Grantor, then Mortgagee may, upon notice to Grantor, deal with any such successor in interest in any manner that Mortgagee may deem appropriate, without in any way waiving, releasing, discharging or otherwise vitiating any obligations or liabilities of Grantor or any Guarantor with respect to the Indebtedness, the Property, any of the Loan Documents or the transaction of which this Mortgage is a part.

No sale, conveyance, transfer, pledge, encumbrance, assignment or lease referred to in the immediately preceding Section, and no forbearance, extension or assumption by or to any person with respect to the Indebtedness or any of the Loan Documents, shall change, waive, release, discharge or otherwise affect the liability of Grantor or any Guarantor, in whole or in part, unless Mortgagee shall specifically agree to the contrary in writing.

ARTICLE 4

MISCELLANEOUS

4.1 Use of Certain Terms. Each reference in this Mortgage to Grantor, any Guarantor, Mortgagee shall be deemed also to include their respective heirs, executors, administrators, personal representatives, successors and assigns. Each reference in this Mortgage to any gender shall be deemed also to include any other gender, and the use in this Mortgage of the singular shall be deemed also to include the plural and vice versa, unless the context clearly requires otherwise. As used in this Mortgage, the term “**person**” means any and all natural persons (whether acting for themselves or in a representative capacity), sole proprietorships, partnerships, joint ventures, associations, trusts, estates, limited liability companies, corporations (non-profit or otherwise), financial institutions, governments (and agencies, instrumentalities and political subdivisions thereof), and other entities, authorities and organizations of every type. As used in this Mortgage, unless the context clearly requires otherwise, (a) the words “herein,” “hereunder,” “hereinafter” and “hereto” and words of similar import shall be deemed to refer to this Mortgage as a whole and not to any particular Article, Section, subsection, paragraph or other subdivision, (b) the words “include” and “including” shall be deemed to be followed by the words “without limitation,” and (c) the terms “Dollars” and “\$” shall be deemed to refer to the lawful currency of The United States of America. Each reference in this Mortgage to the provisions of this Mortgage or the provisions of any of the other Loan Documents shall be deemed to refer to any and all covenants, agreements, terms, conditions and other provisions hereof or thereof. Each reference in this Mortgage to the fees or other compensation of any agents, contractors, attorneys or other representatives of any person shall be deemed also to include the reasonable actual out-of-pocket expenses and disbursements, as well as fees of paraprofessionals and similar personnel (such as paralegals and legal assistants). Each reference in this Mortgage to any statute shall be deemed to include within such reference any amendments, substitutions or replacements thereof or therefor, and each reference in this Mortgage to any specific provision of the Bankruptcy Code or any other statutory compilation shall be deemed to include within such reference any similar statutory provision that may hereafter be enacted by any governmental authority.

4.2 Schedules; Recitals; Headings. The Schedules and Exhibits attached hereto and the paragraphs set forth at the beginning of this Mortgage under the heading “BACKGROUND” are incorporated in and made a part of this Mortgage by this reference. The captions and headings of the Articles, Sections, subsection, paragraphs and other subdivisions of this Mortgage are for convenience of reference only, are not to be considered a part of this Mortgage and shall not be deemed or construed to define, modify, limit, expand or otherwise affect any of the provisions of this Mortgage.

4.3 Notices. All notices, reports, demands, requests or other communications to be given or delivered to Grantor, or Mortgagee under this Mortgage shall be deemed given or delivered to such person in the same manner as set forth in the Loan Agreement.

4.4 Binding Effect; Third Parties. All provisions of this Mortgage shall run with the Land and shall bind and inure to the benefit of Grantor, Mortgagee, and their respective heirs, executors, administrators, personal representatives, successors and assigns. Except as otherwise expressly provided in this Mortgage, this Mortgage is for the exclusive benefit of such persons, and nothing set forth herein shall be deemed to be for the benefit of any other person. If there is more than one Grantor at any time, all undertakings of Grantor under this Mortgage shall be deemed to be joint and several.

4.5 Applicable Law; Severability. THIS MORTGAGE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ALABAMA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. All rights, powers, privileges and remedies provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any law and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, illegal or unenforceable. If any provision of this Mortgage or any of the other Loan Documents shall be invalid, illegal or unenforceable in any respect, then such provision alone shall be deemed to be null and void, and the validity, legality and enforceability of the remaining provisions of this Mortgage and of the other Loan Documents shall remain in full force and effect and shall not in any way be impaired or otherwise affected thereby.

4.6 Changes. Neither this Mortgage nor any of the other Loan Documents, nor any provision of any of them, may be changed, waived, released, discharged, withdrawn, revoked, canceled or terminated orally, or by any action or inaction. Any such change, waiver, release, discharge, withdrawal, revocation, cancellation or termination shall be effective only if set forth in a written document signed by the party against whom enforcement of such change, waiver, release, discharge, withdrawal, revocation, cancellation or termination is sought, and then shall be effective only to the extent specifically provided in such document. Any agreement hereafter made by Grantor or Mortgagee relating to this Mortgage or to any of the other Loan Documents shall, to the fullest extent permitted by law, be superior to the rights and interests of the holder, owner or Mortgagee of any intervening lien or encumbrance. Neither the modification of this Mortgage or any of the other Loan Documents nor the release of any part of the Property from the lien of this Mortgage shall impair the priority of such lien.

4.7 Discretion. Each and every decision, determination, estimate, request, consent or similar matter to be made or given by Mortgagee from time to time pursuant to or in connection with this Mortgage shall be within its sole, absolute, unlimited and subjective discretion, except to the extent specifically provided to the contrary in this Mortgage or in any of the other Loan Documents. All conditions to any agreement or obligation of Mortgagee under or in connection with this Mortgage or any of the other Loan Documents (including any agreement or obligation to make any Compensation or other funds available to Grantor) are solely for the benefit of Mortgagee. Any or all such conditions may be waived or relaxed at any time or times by Mortgagee. No such waiver or relaxation in any particular instance shall affect Mortgagee's discretion in dealing with any such condition in any other instance.

4.8 No Release. No obligation or liability of Grantor or any Guarantor in connection with the Indebtedness or the Property (whether existing or arising under this Mortgage, any of the other Loan Documents or otherwise) shall be changed, waived, released, discharged, withdrawn, revoked, canceled, terminated or otherwise affected (except to the extent expressly provided in this Mortgage, any of the other Loan Documents or any written agreement executed by Mortgagee) by reason of any of the following: (a) any Casualty, Taking or other damage affecting all or any part of the Property; (b) any restriction or prevention of, or interference with, any use of all or any part of the Property; (c) any title defect, lien or other encumbrance on all or any part of the Property or any eviction or dispossession of any person from all or any part of the Property by paramount title or otherwise; (d) any bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution, conservatorship, receivership or similar case or proceeding relating to Grantor, Principal or any Guarantor or any action taken with respect to the Indebtedness, the Property or any of the Loan Documents by any trustee, custodian, receiver, conservator, master, liquidator or court in connection with any such case or proceeding; (e) any claim that any person may have against Mortgagee; (f) any default or failure by Mortgagee to perform or comply with any of the provisions of this Mortgage, any of the other Loan Documents or any other agreement with Grantor, Principal or any Guarantor; (g) any consent or approval (whether conditional or unconditional) or any withholding of consent or approval to any matter for which Mortgagee's consent or approval may be required; (h) any failure by Mortgagee to comply with any request to foreclose this Mortgage, accept a deed or other conveyance or assignment of all or any part of the Property in lieu of foreclosure or otherwise enforce any of Mortgagee's rights, powers, privileges or remedies under this

Mortgage or any of the other Loan Documents; (i) any release of all or any part of the Property or any other security for the Indebtedness from the lien of this Mortgage or from the effect of any of the other Loan Documents or any acceptance of other or additional security for all or any part of the Indebtedness; (j) any release of any person from liability for or in connection with all or any part of the Indebtedness; (k) any compromise, settlement, forbearance or extension of time for payment or performance of or in connection with the Indebtedness; (l) any waiver of, or other failure by Mortgagee to exercise, any right, power, privilege or remedy available after the occurrence of any Event of Default or at any other time; (m) any agreement by Mortgagee, or any consent by Mortgagee to any agreement, modifying the terms of this Mortgage or any of the other Loan Documents, modifying the priority of this Mortgage or modifying the obligations or liabilities of any person in connection with the Indebtedness, the Property or any of the Loan Documents; or (n) any other occurrence, whether similar or dissimilar to any of the foregoing occurrences, whether or not Grantor or any Guarantor shall have notice or knowledge of any of the foregoing occurrences. None of the foregoing occurrences shall preclude Mortgagee from exercising any right, power, privilege or remedy available after the occurrence of any then-existing or subsequent Event of Default, nor shall the priority of the lien of this Mortgage be altered by any such occurrence (except to the extent expressly provided in any document or instrument executed by Mortgagee).

4.9 Receipt of Copy Acknowledged. Grantor hereby acknowledges that it has received an accurate and complete copy of this Mortgage, as executed.

4.10 Commercial Transaction. The transaction of which this Mortgage is a part of a commercial transaction, and this Mortgage is given for commercial purposes.

4.11 Counterparts. This Mortgage may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same Mortgage.

4.12 Cancellation of Mortgage. If (a) the Indebtedness shall be fully, finally, and indefeasibly paid (without any deduction or credit for taxes or other charges) in accordance with the Loan Documents, and (b) the provisions of the Loan Documents required to be kept, performed, observed and complied with by or on behalf of Grantor shall be so kept, performed, observed and complied with, then, after written request by Grantor, the Mortgagee shall reconvey the Property then subject to this Mortgage, all without warranty and all at the expense of Grantor. The grantee in such reconveyance may be described as the "person or persons legally entitled thereto."

4.13 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, GRANTOR AND MORTGAGEE, FOR THEMSELVES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, HEREBY (a) AGREE THAT NONE OF THEM SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, ACTION, PROCEEDING, COUNTERCLAIM (OTHER THAN A COMPULSORY OR MANDATORY COUNTERCLAIM) OR OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF OR OTHERWISE RELATING TO THE INDEBTEDNESS, THIS MORTGAGE, ANY OF THE OTHER LOAN DOCUMENTS, ANY RELATED INSTRUMENT OR AGREEMENT, ANY COLLATERAL FOR ALL OR ANY PART OF THE INDEBTEDNESS, OR THE DEALINGS OR RELATIONSHIP BETWEEN OR AMONG GRANTOR, MORTGAGEE AND ANY GUARANTOR (OR ANY OF THEM) IN CONNECTION THEREWITH, (b) IRREVOCABLY WAIVE ANY AND ALL RIGHT TO ANY SUCH JURY TRIAL, AND (c) AGREE THAT NONE OF THEM SHALL SEEK TO CONSOLIDATE ANY SUCH LAWSUIT, ACTION, PROCEEDING, COUNTERCLAIM (OTHER THAN A COMPULSORY OR MANDATORY COUNTERCLAIM) OR OTHER LITIGATION PROCEDURE AS TO WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER LAWSUIT, ACTION, PROCEEDING, COUNTERCLAIM (OTHER THAN A COMPULSORY OR MANDATORY COUNTERCLAIM) OR OTHER LITIGATION PROCEDURE AS TO WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED. THIS SECTION HAS BEEN FULLY DISCUSSED BY GRANTOR, AND

MORTGAGEE, EACH OF WHOM HAS BEEN REPRESENTED BY COUNSEL. THIS SECTION SHALL NOT BE SUBJECT TO ANY EXCEPTIONS, AND NO SUCH PERSON HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PERSON THAT THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

4.14 Construction Mortgage. Until completion of construction of the Improvements this Mortgage is a construction Mortgage. The proceeds of the Loan evidenced by the Note will be disbursed by Mortgagee pursuant to the Loan Agreement. Mortgagor hereby specifically covenants and agrees that:

(a) All Improvements and the development of the Project shall be constructed, lien free, in a good and workmanlike manner, and shall be completed in accordance with the plans and specifications previously provided to Mortgagee.

(b) Upon the occurrence and continuance of an Event of Default of any provision in this Mortgage in addition to the remedies set forth in Article 2 hereof and of the Loan Agreement following acceleration of all amounts due under any of the Note, secured hereby. Mortgagee shall be entitled, at Mortgagee's option, to:

(i) Enter into possession of the Property, together with all materials on or about the Property, and perform all work and labor necessary to complete any unfinished construction of the Improvements, complete the Project, and to maintain and operate the Property. All sums expended by Mortgagee for such purposes shall forthwith be paid to Mortgagee by Mortgagor and all such sums so paid or incurred by Mortgagee shall be added to the Indebtedness secured hereby. For this purpose Mortgagor hereby constitute and appoint Mortgagee as Mortgagor's true and lawful attorney-in-fact with full power of substitution after the occurrence and continuance of an event of default and acceleration of all amounts due under the Note to undertake all actions reasonably necessary to so maintain the Property in the name of Mortgagor, and hereby empowers Mortgagee as follows: (i) to use any funds of Mortgagor, including any balance which may be held in escrow, for the purpose of so maintaining the Property and for the purpose of completing the Improvements; (ii) to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for such purposes; (iii) to pay, settle or compromise existing bills or claims which are or may be liens against the Property; and (iv) to do any and every act with respect to the construction of the Improvements and the maintenance and operation of the Property which Mortgagor may do in Mortgagor's own behalf. It is expressly understood and agreed that this power of attorney shall be deemed a power coupled with an interest which cannot be revoked.

(ii) Mortgagee shall also have the power and authority to join with Mortgagor and prosecute and defend all actions or proceedings which may arise in connection with the construction, maintenance, and operation of the Property and to take such action and require such performance as is deemed necessary.

4.15 Tribunal Requirements. The development of the Project and construction of the Improvements shall be in strict compliance with all applicable laws, regulations and administrative rulings, including all applicable zoning regulations and building codes of the municipality in which the Property is located. Upon request, Mortgagor shall provide Mortgagee satisfactory evidence of such compliance.

4.16 Continuing Lien. This Mortgage creates a continuing lien to secure the full and final payment of the Indebtedness hereby secured and the performance of all the other obligations secured or imposed hereby and hereafter arising.

4.17 State-Specific Provisions. In the event of any inconsistency or disagreement between the terms and provisions set forth in Section 4.18 hereinbelow and the other terms and provisions of this Mortgage, the terms and provisions of said Section 4.18 shall govern, control and supersede such other terms and provisions to the extent of such inconsistency or disagreement.

4.18 Certain Additional Rights and Remedies of Lender upon Default. Upon the occurrence of any Event of Default, Lender may (but shall have no obligation to) exercise any one or more of the following remedies, without notice (unless notice is required by applicable statute):

(a) **Power of Sale.** Lender shall be authorized, at its option, whether or not possession of the Property is taken, after giving notice by publication once a week for three (3) consecutive weeks of the time, place, and terms of each such sale, together with a description of the Property to be sold, in some newspaper published in the county where the Property is located (if the Property is located in more than one county, publication will be made in all counties where the Property is located), to sell the Property (or such part or parts thereof as Lender may from time to time elect to sell) at the front or main entrance of such county's courthouse, at public outcry, either in person or by auctioneer, to the highest bidder for cash. If no newspaper is published in the county where the Property is located, notice will be published in a newspaper of an adjoining county. Lender, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Property, or any part thereof, if the highest bidder therefor. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any part or all of the Property, real, personal, or mixed, may be offered for sale in parcels or *en masse* for one total price, the proceeds of any such sale *en masse* to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case Lender, in the exercise of the power of sale herein given, elects to sell the Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Property not previously sold shall have been sold or all the Indebtedness shall have been paid in full and this Mortgage shall have been terminated as provided herein.

(b) **UCC Collateral and Fixtures.** Without limiting Lender's rights of enforcement with respect to the Property or any part thereof in accordance with the procedures for foreclosure of real estate, Lender shall have and may exercise with respect to the UCC Collateral, including any fixtures included in the Property, all rights, remedies, and powers of a secured party under the UCC (or under the uniform commercial code in force, from time to time, in any other state), all of which shall be cumulative. Such rights shall include the right and power to sell at public or private sale or sales or otherwise dispose of, lease, or utilize the UCC Collateral and any part or parts thereof in any manner to the fullest extent authorized or permitted under the UCC, without regard to preservation of the UCC Collateral or its value and without the necessity of a court order. Lender shall have, among other rights, the right to take possession of the UCC Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing the same without being guilty of trespass and without liability for damages occasioned thereby and to take any action deemed appropriate or desirable by Lender at its option and its sole discretion, to repair, restore, or otherwise prepare the UCC Collateral for sale, lease, or other use or disposition. At Lender's request, Mortgagor shall assemble the UCC Collateral and make the UCC Collateral available to Lender at any place designated by Lender. To the extent permitted by applicable Law, Mortgagor expressly waives any notice of sale or any other disposition of the UCC Collateral and any rights or remedies of Lender with respect to, and the formalities prescribed by any Law relative to, the sale or disposition of the UCC Collateral or to the exercise of any other right or remedy of Lender existing upon or after default. To the extent that such notice is required and cannot be waived, Mortgagor agrees that if such notice is given to Mortgagor in accordance with the provisions of Section 4.3, at least 10 days before the time of the sale or other disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice; provided that, if Lender fails to comply therewith in any respect, its

liability for such failure shall be limited to the liability (if any), imposed on it as a matter of law under the UCC.

(i) Mortgagor agrees that Lender may proceed to sell or dispose of both the real and personal property comprising the Property in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. Any sale made pursuant to the provisions of this Section 4.18(e) shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with and upon the same notice as required for the sale of the Property under power of sale as provided in Section 4.18(d) above. Mortgagor hereby grants Lender the right, at its option after the occurrence of an Event of Default, to transfer at any time to itself or its nominee the personal property or any part thereof and to receive the monies, income, proceeds, and benefits attributable to the same and to hold the same as personal property or to apply it to the Indebtedness in such order and amounts and manner as Lender may elect. Mortgagor covenants and agrees that all recitals in any instrument transferring, assigning, leasing, or making other disposition of the personal property or any part thereof shall be full proof of the matters stated therein and no other proof shall be required to establish the legal propriety of the sale or other action taken by Lender and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred.

(ii) In the event of a foreclosure sale, whether made under the judgment of a court, power of sale, or otherwise, the personal property and the other Property may, at the option of Lender, be sold as a whole. It shall not be necessary that Lender take possession of the personal property or any part thereof prior to the time that any sale pursuant to the provisions of this Section 4.18(e) is conducted and it shall not be necessary that the personal property or any part thereof be present at the location of such sale. With respect to application of proceeds from disposition of the personal property, the costs and expenses incident to disposition shall include the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like, and reasonable attorneys' fees, costs and expenses incurred by Lender. Lender may appoint or delegate any one or more Persons as agent to perform any act or acts necessary or incident to any sale held by Lender, including the sending of notices and the conduct of the sale, in the name and on behalf of Lender. Lender may comply with any Law in connection with a disposition of the personal property and such compliance will not be considered to affect adversely the commercial reasonableness of any sale of the personal property. Lender may sell the personal property without giving any warranties as to the personal property, and specifically disclaim all warranties including warranties relating to title, possession, quiet enjoyment and the like, and all warranties of quality, merchantability, and fitness for a particular purpose and such procedure shall not be considered to affect adversely the commercial reasonableness of any sale. Mortgagor acknowledges that a private sale may result in less proceeds than a public sale. Mortgagor acknowledges that the personal property may be sold at a loss to Mortgagor and that in such event, Lender shall have no liability or responsibility to Mortgagor for such loss.

(iii) To effectuate the rights and remedies of Lender upon default, Mortgagor does hereby irrevocably appoint Lender attorney-in-fact for Mortgagor, with full power of substitution to sign, execute, and deliver any and all instruments and documents and do all acts and things to the same extent as Mortgagor could do, and to sell, assign, and transfer any personal property to Lender or any other party.

(c) Rents and Leases.

(a) Lender, at its option, shall have the right, power, and authority to exercise and enforce any or all of the following rights and remedies with respect to Rents and Leases

prior or subsequent to taking possession of any portion of the Property or taking any action with respect to such possession:

(b) (i) to terminate the license granted to Mortgagor in granting clause G of this Mortgage, (ii) to collect the Rents, whether paid or accruing before or after the filing of any petition by or against Mortgagor in bankruptcy, and, (iii) without taking possession, in Lender's own name, to demand, collect, receive, sue for, attach, and levy the Rents, (iv) to give proper receipts, releases, and acquittances therefor, (v) to require Mortgagor to transfer all security deposits and records thereof to Lender together with original counterparts of the Leases, and (vi) after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorneys' fees, to apply the net proceeds thereof to the Indebtedness in such order and amounts as Lender may choose (or hold the same in a reserve as security for the Indebtedness);

(c) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, to enter upon, take possession of, manage, and operate the Property or any part thereof for the account of Mortgagor, make, modify, enforce, cancel, or accept surrender of any Lease, remove and evict any tenant or subtenant, increase or reduce rents, decorate, clean, and make repairs, and otherwise do any act or incur any cost or expenses Lender shall deem proper to protect the security hereof, as fully and to the same extent as Mortgagor could do if in possession, and in such event to apply any funds so collected to the operation and management of the Property (including payment of reasonable management, brokerage, and attorneys' fees) and payment of the Indebtedness in such order and amounts as Lender may choose (or hold the same in reserve as security for the Indebtedness); and

(d) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation, covenant, or agreement of Mortgagor under this Mortgage.

(e) The collection of the Rents and application thereof (or holding thereof in reserve) or the entry upon and taking possession of the Property or both shall not cure or waive any default or waive, modify, or affect any notice of default under this Mortgage, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by Lender, once exercised, shall continue for so long as Lender shall elect, notwithstanding that the collection and application of the Rents may have cured the original default. If Lender shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

(d) Multiple Sales. Lender shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring the whole Indebtedness due. Any such sale may be made subject to the unmatured part of the Indebtedness, and such sale, if so made, shall not in any manner affect the unmatured part of the Indebtedness, but as to such unmatured part of the Indebtedness shall remain in full force and effect as though no sale had been made. The Property may be sold in one or more parcels and in such manner and order as Lender, in its sole discretion, may elect, subject to applicable Law. Several sales may be made under this Mortgage without exhausting the right of sale for any remaining part of the Indebtedness whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Indebtedness without exhausting any power of foreclosure and the power to sell the Property for any other part of the Indebtedness, whether matured at the time or subsequently maturing.

(e) Foreclosure Deeds. Mortgagor hereby authorizes and empowers Lender or the auctioneer at any foreclosure sale had hereunder, for and in the name of Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

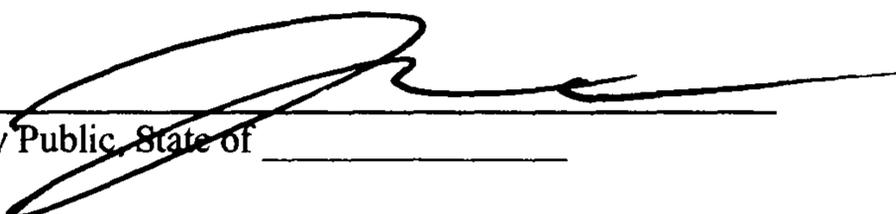
[Remainder of Page Intentionally Left Blank; Signature Page to Follows]

IN WITNESS WHEREOF, Grantor has caused this Mortgage to be executed under seal by a person or persons duly authorized, all as of the day and year first above written.

<p>NOTICE OF INDEMNIFICATION: TRUSTOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS MORTGAGE CONTAINS CERTAIN INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY LENDER/MORTGAGEE FROM CLAIMS OR LOSSES ARISING AS A RESULT OF LENDER/MORTGAGEE'S OWN NEGLIGENCE OR OTHER FAULT.</p>	<p>BCZP CALERA AL LLC, an Alabama limited liability company</p> <p>By: Blue Zone Capital Partners LLC, a Delaware limited liability company, its Manager</p> <p>By:  Keith Bernardo, Member</p>
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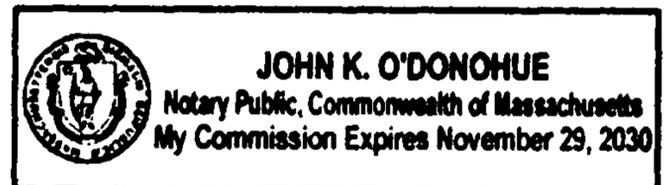
STATE OF Massachusetts }
COUNTY OF Essex } SS.

This instrument was acknowledged before me on April 11, 2025, by Keith Bernardo as a Member of **Blue Zone Capital Partner LLC**, a Delaware limited liability company and Manager of **BCZP CALERA AL LLC**, an Alabama limited liability company (the "Company"), on behalf of the Company, and that this instrument was signed by him in the name of the Company for the purposes and consideration therein expressed.


Notary Public, State of _____

MY COMMISSION EXPIRES: _____

[NOTARY SEAL]



[Signature Page to Mortgage]

Exhibit A
Legal Description

The Land is described as follows:

Lot 1, according to the Survey of Lots 1 & 2 CVS Addition to Calera Subdivision, as recorded in Map Book 40, page 52, 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
04/22/2025 01:17:23 PM
\$4005.85 BRITTANI
20250422000119250

Allie S. Bayl