

Fill in this information to identify the case:Debtor RH Lakewind East LLCUnited States Bankruptcy Court for the: _____ District of New Jersey
(State)Case number 25-15344**Modified Official Form 410
Proof of Claim****04/25**

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Cleveland International Fund - NRP West Edge, Ltd</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? See summary page Federal Rule of Bankruptcy Procedure (FRBP) 2002(g) Contact phone <u>419-874-6859</u> Contact email <u>See summary page</u> Uniform claim identifier (if you use one): _____	Where should payments to the creditor be sent? (if different) Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim?	\$ <u>4,832,334.08</u> Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>mortgage, money loaned</u>
9. Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input checked="" type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: <u>5131 Bundy Road, New Orleans, LA</u> Basis for perfection: <u>mortgage</u> Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: <u>\$ unknown</u> Amount of the claim that is secured: <u>\$4,832,334.08</u> Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: <u>\$ 332,334.08</u> Annual Interest Rate (when case was filed) <u>7.0</u> % <input checked="" type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ _____

☐ Up to \$3,800* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$17,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/28 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(3) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 07/21/2025
MM / DD / YYYY

/s/Patricia B. Fugee
Signature

Print the name of the person who is completing and signing this claim:

Name Patricia B. Fugee
First name Middle name Last name

Title Partner

Company FisherBroyles, LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



Verita (KCC) ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (866) 523-2941 | International 001-310-823-9000

Debtor: 25-15344 - RH Lakewind East LLC District: District of New Jersey, Trenton Division		
Creditor: Cleveland International Fund – NRP West Edge, Ltd Patricia B. Fugee, Esq. 27100 Oakmead Dr., #306 Perrysburg, Ohio, 43551 United States Phone: 419-874-6859 Phone 2: Fax: 419-550-1515 Email: patricia.fugee@fisherbroyles.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: mortgage, money loaned	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 4,832,334.08	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: Yes: 4,832,334.08 Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Real Estate Describe: 5131 Bundy Road, New Orleans, LA Value of Property: unknown Annual Interest Rate: 7.0%, Fixed Arrearage Amount: 332,334.08 Basis for Perfection: mortgage Amount Unsecured:	
Submitted By: Patricia B. Fugee on 21-Jul-2025 5:24:08 p.m. Pacific Time Title: Partner Company: FisherBroyles, LLP		

Exhibit A to Proof of Claim

Cleveland International Fund – NRP West Edge, Ltd.

Pursuant to the *Final Order (I) Authorizing the Debtors to Obtain PostPetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* (docket no. 251), the claim of Cleveland International Fund – NRP West Edge, Ltd. (“CIF”), was stipulated as allowed and the mortgage was determined to be valid, subject to the terms thereof. This Claim is filed out of an abundance of caution.

Amount due:

Principal	\$4,500,000.00	
Pre -Interest	\$22,191.75	May 1 to 18, 2025
Post-Interest	\$53,013.70	May 19 through June 30, 2025
Deferred Interest	\$104,547.94	Through June 30, 2025
Legal	\$152,580.69	All bills regarding this matter

Total as of 7-1-2025: \$4,832,334.08

Return after recording to:
 Cleveland International Fund, Ltd.
 12434 Cedar Road, Suite 15
 Cleveland Heights, Ohio 44106

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

BE IT KNOWN on the 11th day of December, 2024;

BEFORE ME, the undersigned notary public in the presence of the undersigned competent witnesses,

PERSONALLY CAME AND APPEARED:

RH Lakewind East LLC, a Delaware limited liability company, whose mailing address is 46 Main Street, Suite 339, Monsey, New York 10952, appearing herein by and through Laguna Reserve APTS Investor LLC, a Delaware limited liability company, its sole member ("Borrower"), by and through Stephen Strnisha, its Manager;

WHO DECLARED THAT:

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING ("Mortgage") is made as of December 11, 2024, by RH Lakewind East LLC, a Delaware limited liability company, whose mailing address is 46 Main Street, Suite 339, Monsey, New York 10952 (hereinafter referred to as "Mortgagor"), in favor of CLEVELAND INTERNATIONAL FUND – NRP WEST EDGE, LTD., an Ohio limited liability company, having a principal office at 12434 Cedar Road, Suite 15, Cleveland Heights, Ohio 44106 (hereinafter referred to as "Mortgagee").

Recitals

Mortgagor's sole member, Laguna Reserve APTS Investor LLC, a Delaware limited liability company ("Borrower"), and Mortgagee entered into that certain credit agreement dated April 25, 2023 (as the same may be amended, modified, supplemented, replaced or otherwise modified from time to time, the "Credit Agreement") pursuant to which Mortgagee made a loan to Borrower in the original principal amount of \$5,000,000.00 (the "Loan"). The Loan is

INST #: 2024-37105
 TYPE: M
 MIN: 1450255
 12/13/2024 04:49:01 PM
 30 PG(S)

ELECTRONICALLY RECORDED

Chelsey Richard Napoleon
 CLERK OF CIVIL DISTRICT COURT

evidenced by a note dated April 25, 2023 in such principal amount (as the same may be amended, modified, restated, severed, consolidated, renewed, replaced, or supplemented from time to time, the "Note"). Capitalized terms used herein without definition are used as defined in the Credit Agreement.

Borrower has failed to perform pursuant to the terms of the Credit Agreement and has asked Mortgagee to forbear from exercising certain of its rights under the Credit Agreement. As a condition precedent to agreeing to forbear certain of its rights under the Credit Agreement, Mortgagor requires that Borrower cause Mortgagor deliver this Mortgage to secure the payment of the Note and all sums which may or shall become due thereunder or under any of the other documents evidencing, securing or executed in connection with the Loan (the Note, this Mortgage, the Credit Agreement and such other documents, as any of the same may, from time to time, be modified, amended or supplemented, being hereinafter collectively referred to as the "**Loan Documents**"), including (i) the payment of interest and other amounts which would accrue and become due but for the filing of a petition in bankruptcy (whether or not a claim is allowed against Mortgagor for such interest or other amounts in any such bankruptcy proceeding) or the operation of the automatic stay under Section 362(a) of Title 11 of the United States Code (as the same may be amended from time to time, the "**Bankruptcy Code**"), and (ii) the unpaid Principal, all interest accrued and unpaid thereon, and any late fees and all other sums due to Mortgagee in respect of the Loan under any Loan Document (all such sums being hereinafter collectively referred to as the "**Debt**").

GRANT OF MORTGAGE

Mortgagor hereby MORTGAGES, GRANTS, PLEDGES, HYPOTHECATES, ASSIGNS, COLLATERALLY ASSIGNS and WARRANTS to Mortgagee, and grants a continuing security interest in favor of Mortgagee in, the real estate in Orleans Parish, in the State of Louisiana, described more particularly on Exhibit A attached hereto and incorporated herein for all purposes (hereinafter referred to as the "Real Estate"), together with all rights, title and interests of Mortgagor, now existing or hereafter arising, in and to the following:

(a) All rights, privileges, interests, tenements, hereditaments, easements and appurtenances in any way now or hereafter benefiting, belonging or appertaining to all or any of the Real Estate (including without limitation, all land lying within any roadway and strips of land adjoining all or any part of the Real Estate, all minerals, oil, gas and other hydrocarbon substances thereon or therein and all air rights and water rights) (collectively, "Appurtenances");

(b) All buildings, structures and other improvements of every kind and description now or hereafter erected, constructed or placed on the Real Estate, together with all goods, inventory, equipment, furnishings, fixtures and articles of personalty and chattel personal property which now or hereafter constitute a part of, or are used in connection with, the development, construction or operation of the Real Estate, together with replacements thereof and all increases and additions thereto (collectively, "Improvements");

(c) All extensions, improvements, betterments, substitutes, replacements, renewals, additions and appurtenances of or to the Appurtenances or the Improvements (collectively, "Additions");

(d) All rents, royalties, income, proceeds and/or profits from the operation of the Real Estate, the Appurtenances and the Improvements (collectively, "Rents");

(e) All leases, ground leases, tenancies, occupancy rights, occupancy agreements and agreements for the sale, lease or granting of interests in the Real Estate, the Appurtenances or the Improvements, or any part thereof (collectively, "Leases");

(f) All governmental licenses, approvals, qualifications, variances, permissive uses, franchises, accreditations, certificates, certifications, consents, permits and other authorizations now or hereafter obtained and relating to the development, construction or operation of the Real Estate or the Improvements, or any part thereof (including without limitation, building permits, subdivision and plat approvals and subdivision and plot plans), and all applications therefor (collectively, "Permits");

(g) All contracts and agreements with any party relating to the development, construction, or operation of the Real Estate and the Improvements, or any part thereof (including without limitation, all contracts and agreements now or hereafter entered into with any party for architectural, engineering, management, maintenance, brokerage, promotional, marketing or consulting services rendered, or to be rendered, with respect to the planning, design, inspection, development, construction, operation, management, maintenance, marketing, promotion, leasing, occupancy or sale of the Real Estate or the Improvements, or any part thereof, and all other agreements relating to the operation of the Real Estate or the Improvements or the provision of services thereon), and all contract rights, warranties and representations, now or hereafter issued by, entered into with, or made by, any governmental authority or other third party (collectively, "Contracts");

(h) All of the plans, specifications and drawings heretofore or hereafter prepared by any architect, engineer or other contractor with respect to the Real Estate or the Improvements, or any part thereof (including without limitation, subdivision and plot plans, foundation plans, utilities facilities plans, floor plans, elevations, framing plans, cross-sections of walls, mechanical plans, electrical plans and architectural and engineering plans and specifications and architectural and engineering studies and analyses) (collectively, "Plans");

(i) All assets of Mortgagor, wherever located, including, without limitation all Fixtures, Goods (including, without limitation, Consumer Goods,

Inventory, Equipment, and Farm Products), Accounts, Chattel Paper (including without limitation, Electronic Chattel Paper and Tangible Chattel Paper), Instruments, General Intangibles (Including without limitation, Payment Intangibles and Software), Letters of Credit, Letter-of-Credit Rights, Documents, As Extracted Collateral, Money and Deposit Accounts of every kind, and other articles of personal property and all additions and accessions thereto, all replacements and renewals of any part thereof, and the proceeds of any of such items ("Personal Property");

(j) Any completion bond, performance bond, labor and material payment bond and any other bond (and the proceeds therefrom) relating to the Real Estate or the Improvements, or any part thereof, or to any contract providing for development, construction or operation of any of the Real Estate or the Improvements, or any part thereof;

(k) All of the books and records pertaining to the Real Estate and the Improvements, or any part thereof, or to the development, construction or operation of the Real Estate and the Improvements, or any part thereof;

(l) All of the accounts and accounts receivable of Mortgagor (including without limitation, checking and savings accounts and accounts receivable from the operation of the Real Estate and the Improvements and the provision of services thereon);

(m) To the extent permitted by any such commitment, any commitment (and the proceeds therefrom) issued by any lender or investor to finance or invest in the Real Estate or the Improvements, or any part thereof, or in Mortgagor;

(n) All rights or awards due to Mortgagor arising out of any eminent domain proceedings for the taking, or for loss of value of, the Real Estate or the Improvements, or any part thereof; and

(o) All additions and accessions to any of the foregoing, all replacements and renewals of all or any part of the foregoing, and the proceeds of any of the foregoing (including without limitation, insurance and tort claims and payments with respect to any of the foregoing).

Except as otherwise expressly provided in this Mortgage, all terms in this Mortgage relating to the Mortgaged Property and the grant of the foregoing security interest which are defined in the Louisiana Uniform Commercial Code ("UCC") shall have the meanings assigned to them in Chapter 9 (or, absent definition in Chapter 9, in any other Chapter) of the UCC as enacted in the State of Louisiana, as those meanings may be amended, revised or replaced from time to time. Notwithstanding the foregoing, the parties intend that the terms used herein which are defined in the UCC have, at all times, the broadest and most inclusive meanings possible. Accordingly, if the UCC shall in the future be amended or held by a court to define any term used

herein more broadly or inclusively than the UCC in effect on the date of this Mortgage, then such term, as used herein, shall be given such broadened meaning. If the UCC shall in the future be amended or held by a court to define any term used herein more narrowly, or less inclusively, than the UCC in effect on the date of this Mortgage, such amendment or holding shall be disregarded in defining such term used in this Mortgage.

Hereinafter, the Real Estate, the Appurtenances, the Improvements, the Additions, the Rents, the Leases, the Permits, the Contracts, the Plans, the Personal Property and the remainder of the foregoing are referred to collectively as the "Mortgaged Property."

This Mortgage is given to secure performance by Mortgagor of the covenants and agreements contained in this Mortgage and to secure payment and performance by Mortgagor of the following:

(a) All obligations, liabilities and indebtedness of Mortgagor to Mortgagee, and all renewals and extensions thereof, now or hereafter arising under, by virtue of, pursuant to, or in connection with the Credit Agreement or the Note, together with all interest accruing thereon, and all fees, charges and other amounts payable thereunder, whether such indebtedness, obligations and liabilities are direct, indirect, fixed, contingent, liquidated, unliquidated, joint, several or joint and several (collectively, "Note Obligations");

(b) All of the obligations, indebtedness and liabilities of Mortgagor to Mortgagee, now existing or hereafter arising under, by virtue of, pursuant to, or in connection with, the terms of any and all security agreements, pledge agreements, assignments of collateral, mortgages or other security documents (as the same may be amended, restated, modified, renewed and/or extended from time to time and at any time) now or hereafter securing all or any part of the Note Obligations, whether such indebtedness, obligations and liabilities are direct, indirect, fixed, contingent, liquidated, unliquidated, joint, several or joint and several;

(c) Payment of all costs of collection and of all costs and reasonable attorneys' fees incurred by Mortgagee in the enforcement of this Mortgage and any and all expenses and costs incurred by Mortgagee in connection with environmental clean-up, remediation, or other action as may be required under applicable federal, state or local environmental laws, statutes, ordinances, rules and regulations or as may be deemed necessary by Mortgagee to protect the value of the Mortgaged Property;

(d) Any and all modifications, renewals and extensions of the Credit Agreement or the Note, the indebtedness, liabilities, obligations and the other documents and instruments secured hereby (including without limitation, (i) modifications of the required principal payment dates or interest payment dates, deferring or accelerating payment dates wholly or in part, and (ii) modifications, extensions or renewals at a different rate of interest, whether or not, in the case of

a promissory note or contract, the modification, extension or renewal is evidenced by a new or additional promissory note or other contract);

(e) Payment of all other indebtedness, obligations and liabilities of Mortgagor to Mortgagee, now existing or hereafter arising, direct or indirect, absolute or contingent, primary or secondary, joint, several, or joint and several and whether or not related to the Note Obligations;

(f) All Guaranty Obligations (as such term is defined in the Guaranty, as the same may be amended from time to time) executed by Guarantor in favor of Mortgagee pursuant to which Guarantor guarantees all obligations of Mortgagor to Mortgagee as further described therein, as the same may be amended, modified, supplemented, and/or restated from time to time and at any time); and

(g) All costs, expenses and reasonable attorneys' fees incurred by the Mortgagee in the enforcement or collection of the Obligations and/or any of the Guaranty Obligations.

Hereafter, all of the indebtedness, liabilities and obligations secured by this Mortgage, including the indebtedness, liabilities and obligations described above and also all future advances, are referred to collectively as the "Indebtedness." Terms defined in the Credit Agreement and not otherwise defined in this Mortgage shall have the same meanings in this Mortgage as ascribed to them in the Credit Agreement.

All parties who have, or may acquire, an interest in the Mortgaged Property shall be deemed to have notice of, and shall be bound by, the terms of the Note, the Credit Agreement, this Mortgage, and any other instruments or documents secured hereby and the terms of the Indebtedness (including without limitation, notice that the rate of interest on some or all of the Indebtedness may vary from time to time).

Notwithstanding anything to the contrary, the maximum amount of the Indebtedness secured by this Mortgage, including the mortgage granted herein and the pledge granted in any leases and rents, at any one time in all events shall not exceed \$7,500,000.00 (the "Maximum Amount"). Without the prior written consent of Mortgagee, which Mortgagee may grant or withhold in its sole discretion, Mortgagor shall not file for record any notice limiting the Maximum Amount that may be secured by this Mortgage to a sum less than the Maximum Amount set forth in this paragraph. This Mortgage has been executed by Mortgagor pursuant to La. Civ. Code art. 3298 and is intended to secure the Indebtedness, whether now existing or arising at any time hereafter, with the preferences and priorities provided under applicable Louisiana law. The pledge of any leases and rents herein is given to the fullest extent allowed under La. Civ. Code arts. 3168 *et seq.* and La. R.S. §§ 9:4401 *et seq.*

Mortgagor hereby further covenants and agrees as follows:

1. Payment and Performance. Mortgagor promptly shall pay as and when due the Indebtedness, all without relief from valuation and appraisal laws and with reasonable attorneys' fees and costs of collection. Mortgagor waives demand, presentment for payment, notice of protest and notice of nonpayment or dishonor of the Note and of the other Indebtedness. Subject to any applicable cure periods, Mortgagor promptly shall perform as and when due all other obligations under this Mortgage, under the Note and under all of the other Loan Documents.

2. Warranties, Covenants, Taxes.

(a) Mortgagor represents, warrants and covenants to, and agrees with, Mortgagee that:

(i) Mortgagor is, and will continue to be, the lawful owner of the Mortgaged Property, with full right to mortgage, pledge, sell, lease, assign and transfer the same and to grant security interests in the same. Except for the mortgage lien and security interests granted to Mortgagee (A) neither the Mortgaged Property nor any interest therein is, or will be, mortgaged, pledged, sold, leased, assigned or transferred to any party or otherwise encumbered, (B) no security interest will be granted in the same, and (C) Mortgagor will defend the same against the claims and demands of others.

(ii) Mortgagor (A) has good and marketable title to the Mortgaged Property, free and clear of all liens, claims, security interests, encumbrances and restrictions, and (B) will at all times keep the Mortgaged Property free from any and all liens, security interests or encumbrances.

(iii) No financing statement covering all or any portion of the Mortgaged Property is on file in any public office.

(iv) The present development and uses of the Real Estate comply in all respects with all applicable zoning and other ordinances, laws and legal restrictions regulating development and use of the Real Estate.

(v) No approval or consent of any regulatory or administrative commission or authority, of any other governmental body or of any other third party (other than that which has already been obtained) is necessary to authorize the execution, delivery or recording of this Mortgage or to authorize the observance and performance by Mortgagor of the covenants and agreements contained in this Mortgage.

(vi) All information contained in written statements furnished or to be furnished to Mortgagee by or on behalf of Mortgagor in connection

with the Indebtedness is and will be, to the best knowledge of Mortgagor, complete and accurate in all material respects.

(b) Care and Condition of Mortgaged Property. Mortgagor shall (i) promptly repair, restore or rebuild or cause to be repaired, restored or rebuilt, any part of the Mortgaged Property which may become damaged or be destroyed if such damage or destruction adversely affects the value of the Mortgaged Property; (ii) keep or cause to be kept the Mortgaged Property in good condition and repair, without waste, and free from encroachments and mechanic's or materialman's lien or claims for lien not expressly subordinated to the lien of this Mortgage; (iii) pay any indebtedness when due which may be secured by a lien or charge on the Mortgaged Property, whether or not superior, equal or junior to the lien of this Mortgage; (iv) complete, or cause to be completed, within a reasonable time and in a good and workmanlike manner, any Improvements now or at any time hereafter in the process of erection, construction or installation; (v) comply, and cause any lessees and sublessees of the Mortgaged Property to comply with all requirements of law, municipal ordinances, restrictions of record or insurance covenants with respect to the Mortgaged Property and its use; (vi) permit no removal or demolition of the Mortgaged Property without the prior written consent of Mortgagee (other than items of the Mortgaged Property which have become obsolete or are being replaced); (vii) observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation all uses), privileges, franchises and concessions which are applicable to any part of the Mortgaged Property or which have been granted to or contracted for by Mortgagor in connection with any existing or contemplated use of any part of the Mortgaged Property; (viii) permit Mortgagee to enter upon and inspect the Mortgaged Property at all reasonable times and from time to time; and (ix) promptly notify Mortgagee of the assertion of any claim, or the filing of any action or proceeding affecting the Mortgaged Property, of the occurrence of any damage to the Mortgaged Property, or of any act or default under any material contract, mortgage, lease, license or federal, state or local law or regulation in connection with or affecting in any material and adverse way, the Mortgaged Property.

(c) Taxes. Mortgagor will pay and discharge or cause to be paid and discharged when due, and before any penalty attaches, all taxes of every kind and nature (including real and personal property taxes), general and special assessments, water rates and sewer rents, and all other governmental, municipal and public dues, charges, fines and impositions whether of a like or different nature, imposed upon or assessed against Mortgagor or the Mortgaged Property or arising in respect of the occupancy, use or possession thereof. Upon Mortgagee's request, Mortgagor will deliver to Mortgagee, not later than 30 days after the delinquency date, duplicate receipts evidencing the payment of all such taxes, charges and assessments.

3. Insurance.

(a) Mortgagor, at its sole cost and expense, shall obtain or cause to be obtained and keep in full force and effect such policies of insurance as Mortgagee shall from time to time require in such amounts and covering such risks as is industry norm in the same general area in which the Mortgaged Property is located, including, without limitation, the following:

(i) To the extent there are improvements on the Real Estate, Insurance against loss or damage to any of the Mortgaged Property by fire and any of the risks covered by insurance commonly known as "fire and extended coverage" and, if consistent with industry norm in the general area in which the Mortgaged Property is located, against loss or damage by flood;

(ii) Comprehensive public liability insurance, including, without limitation, against claims for personal injury, bodily injury, death or property damage occurring on, in or about the Mortgaged Property and the adjoining streets, sidewalks and passageways; and

(iii) During the course of all construction or repair, (A) workers' compensation insurance (including employer's liability insurance) for all persons engaged on or with respect to the Mortgaged Property in such amounts as are reasonably satisfactory to Mortgagee or, if such limits are established by law, in such amounts, and (B) builder's completed value risk insurance (special coverage) against "all risks of physical loss" during construction, covering the total value of work performed and equipment, supplies and materials furnished.

(b) All insurance required to be obtained and maintained by Mortgagor by the terms of this Mortgage (the "Required Insurance") shall be provided by policies written in terms, amounts and by companies satisfactory to the Mortgagee. Mortgagee shall be named as an additional insured on all liability policies; and losses under all policies other than liability policies shall be payable to Mortgagee pursuant to a standard mortgagee endorsement satisfactory to Mortgagee. Mortgagor shall deliver to Mortgagee certificates for all policies of insurance (including but not limited to all policies of Required Insurance) acquired by Mortgagor to insure against any loss or damage to the Mortgaged Property.

(c) Mortgagor hereby authorizes Mortgagee to obtain and/or maintain in effect any and all policies of Required Insurance in the event Mortgagor fails to do so after notice from Mortgagee, and Mortgagor agrees to reimburse Mortgagee for any premiums or other costs associated with obtaining Required Insurance which Mortgagee may pay.

(d) At least thirty (30) days prior to the expiration of each policy of Required Insurance, Mortgagor shall furnish Mortgagee with evidence satisfactory to Mortgagee of the issuance of a renewal or replacement policy continuing such insurance in force as required by this Mortgage. All policies of Required Insurance shall contain a provision that such policies may not be canceled or amended (including any reduction of the scope or limits of coverage) without at least thirty (30) days' prior written notice to Mortgagee. Upon Mortgagee's request, Mortgagor shall cause all bills, statements or other documents relating to the Required Insurance to be sent or mailed directly to Mortgagee.

(e) In the event of a foreclosure sale of all or any part of the Mortgaged Property pursuant to the enforcement of this Mortgage, the purchaser of the Mortgaged Property shall succeed to all rights of Mortgagor, including any rights to the proceeds of insurance and to unearned premiums, in and to all of the policies of Required Insurance. In the event of foreclosure sale, Mortgagee is hereby authorized, without the further consent of Mortgagor, to assign any and all policies of Required Insurance to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such policies.

(f) Mortgagor shall give Mortgagee prompt notice of any loss or damage covered by any Required Insurance, and:

(i) In the event such loss or damage does not constitute a "Major Loss" (as hereinafter defined) and provided that no Event of Default (as hereinafter defined) shall then exist, Mortgagor shall have the right to adjust such loss or damage and receive any monies paid for such loss or damage under any of the Required Insurance. Any such monies received by Mortgagor shall be used only for the purpose of restoring and/or replacing the Mortgaged Property which has been lost, damaged or destroyed.

(ii) In the event such loss or damage constitutes a Major Loss (as hereinafter defined), Mortgagor may adjust such loss or damage, but only with the written consent of Mortgagee. If a Major Loss has occurred and Mortgagee has consented to allow Mortgagor to adjust such loss or damage, any monies paid for such loss or damage under any of the Required Insurance shall be paid jointly to Mortgagor and Mortgagee and shall be used for the sole purpose of restoring and/or replacing the Mortgaged Property which has been lost, damaged or destroyed, provided, however, that no Event of Default shall have occurred and be continuing.

(iii) In the event such loss or damage shall occur at the time an Event of Default has occurred and is continuing: (a) Mortgagee shall have the right to adjust such loss or damage and to execute and deliver on behalf of Mortgagor all proofs of loss, receipts, vouchers and acquittances in

connection therewith and Mortgagor agrees to execute all of the foregoing on demand made by Mortgagee; and (b) any monies received as payment of any loss under any of the Required Insurance paid over to Mortgagee, at the option of the Mortgagee, may be applied either to the prepayment of any portion, as Mortgagee may select, of the Indebtedness or to the reimbursement of Mortgagor for expenses incurred by Mortgagor in the restoration, repair or replacement of the Mortgaged Property which has been lost, damaged or destroyed or held by Mortgagee as additional collateral. If such proceeds are applied to the Indebtedness, Mortgagor is not obligated to restore, repair or rebuild. Each insuring company concerned is hereby authorized and directed to make payment for any such loss directly to Mortgagee rather than jointly to Mortgagee and any other party or parties. Such rights shall also apply if: (i) replacement property is not acquired or repair of the Mortgaged Property is not commenced within ninety (90) days after receipt of the proceeds of Required Insurance; (ii) any Event of Default occurs after such loss or damage but before replacement or completion of repairs; or (iii) any requisite consent has not been obtained from Mortgagee. No such application of insurance proceeds described herein shall have the effect of reducing or otherwise affecting the obligation of Mortgagor to make any payments as and when the same become due and payable in accordance with the terms of the Note, until payment in full of all of the Indebtedness. Any balance of such proceeds remaining after payment in full of said charges and expenses, and of the Indebtedness shall be paid by Mortgagee to Mortgagor. Application of all or any portion of such proceeds, or the release thereof, shall not cure or waive any Event of Default or notice thereof or invalidate any acts done pursuant to such notice.

In no event shall proceeds of the Required Insurance paid or payable to Mortgagor fail to be applied to restoration of the Mortgaged Property which has been lost, damaged or destroyed in such fashion as Mortgagee reasonably may require and in no event shall Mortgagor do or permit any action with respect to the Mortgaged Property which will increase the risk of hazard to the Mortgaged Property without first causing such increased risk to be fully insured. As used in this Mortgage, the term "Major Loss" shall mean any casualty loss or damage to any of the Mortgaged Property the repair, replacement or restoration of which will cost Twenty-Five Thousand Dollars (\$25,000.00) or more.

4. Condemnation Proceeds. Mortgagor shall cause all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation for public or private use affecting any interest in the Mortgaged Property to be paid to Mortgagee. Mortgagee shall hold such proceeds from condemnation and make the same available for acquisition of property in replacement of the portion of the Mortgaged Property which was taken or for the repair or rebuilding of the portion of the Mortgaged Property which suffered damage or loss, as the case may be, provided each and all of the following conditions are met: (i) there shall exist no Event of Default under this Mortgage, and no event shall have occurred which with notice or passage of time or both could or might become an Event of Default hereunder; (ii) Mortgagee shall have

approved, in writing, the acquisition of any such replacement property (as being similar to and having at least equal value as the property being replaced and at least equal utility to Mortgagor) or if a Major Loss, shall have approved the use of such proceeds by Mortgagor for repair or restoration; and (iii) this Mortgage (or, at Mortgagee's option, another mortgage upon like terms and conditions) shall constitute a lien upon such replacement property, subject to no other liens or encumbrances and Mortgagee shall have received, at Mortgagor's expense, one or more policies of title insurance covering such replacement property in amounts satisfactory to Mortgagee and insuring that such lien is subject only to such exceptions as Mortgagee may accept. If such replacement property is not acquired, or if such repair or rebuilding of damaged Mortgaged Property is not begun within ninety (90) days after the receipt of the amount of such award, as the case may be, or if any of the foregoing conditions are not met at the time when such condemnation proceeds are to be applied to pay the price of such replacement property or of such repair or rebuilding, then Mortgagee shall have the option, exercisable in its absolute discretion and without regard to the adequacy of the security hereunder, to apply the amount of such proceeds or any portion thereof, after deducting Mortgagee's charges and expenses, on account of principal and accrued and unpaid interest under the Note and payment of the other Indebtedness or to hold such amount as additional collateral. No such application shall have the effect of reducing or otherwise affecting the obligation of Mortgagor to make any payments as and when the same become due and payable in accordance with the terms of the Note, until payment in full of all of the Indebtedness. Any balance of such proceeds remaining after payment in full of said charges and expenses, and of the Indebtedness shall be paid by Mortgagee to Mortgagor. Application of all or any portion of such proceeds, or the release thereof, shall not cure or waive any Event of Default or notice thereof or invalidate any acts done pursuant to such notice.

5. Protection of Security by Mortgagee. Each and every covenant in this Mortgage shall be performed and kept by Mortgagor solely at Mortgagor's expense. At its option, but without any duty or obligation to do so and without in any way waiving or relieving any default by Mortgagor under this Mortgage, Mortgagee may make any payment and perform any obligation required of Mortgagor to be performed under this Mortgage, in the event Mortgagor fails to make such payment when due or timely perform any such obligation (including without limitation, (a) payment of insurance premiums, taxes, charges and assessments, (b) payment of prior encumbrances and (c) purchase, discharge, compromise or settlement of any tax lien or other lien or title, prior to or on a parity with, the lien of this Mortgage). As between Mortgagor and Mortgagee, all such liens and taxes shall be deemed valid. All amounts so paid and all expenses incurred in connection therewith (including without limitation, reasonable attorney fees) and any other amounts advanced and costs and expenses incurred by Mortgagee to protect the Mortgaged Property, and the security intended to be given by this Mortgage (including without limitation, all costs, expenses and reasonable attorney fees incurred by Mortgagee in respect of any and all legal or equitable proceedings which relate to this Mortgage or to the Mortgaged Property) shall (a) constitute Indebtedness secured by this Mortgage and (b) be immediately due and payable by Mortgagor, without notice and with interest thereon at a per annum rate equal to the Default Rate.

6. Transfer of Mortgaged Property. Mortgagor shall not without the prior written consent of Mortgagee, directly or indirectly (whether voluntarily, involuntarily or by operation of law) sell (whether outright or by land contract, conditional sales contract or any other

such agreement), lease, convey, transfer or in any way further encumber, mortgage, pledge or assign the Mortgaged Property or any of Mortgagor's rights, title or interests therein or grant a security interest therein (each of such actions or events being hereinafter called a "Transfer"), except to the extent expressly permitted by the Credit Agreement.

7. Security Agreement-Financing Statement.

(a) This Mortgage is intended to be a security agreement pursuant to the UCC for (i) any and all items of personal property specified above as part of the Mortgaged Property which, under applicable law, may be subject to a security interest pursuant to the UCC and which are not herein effectively made part of the real property, and (ii) any and all items of property specified above as part of the Mortgaged Property which, under applicable law, constitute fixtures and may be subject to a security interest under Chapter 9 of the UCC, and Mortgagor hereby grants Mortgagee a security interest in said property, and in all additions thereto, substitutions therefor and proceeds thereof, for the purpose of securing all Indebtedness now or hereafter secured by this Mortgage. Mortgagor hereby authorizes Mortgagee to file financing statements and continuation statements to perfect Mortgagee's security interest in said property. Mortgagor shall pay (i) all costs of filing such statements and renewals and releases thereof and (ii) all costs and expenses of any record searches for financing statements Mortgagee may reasonably require. Upon the occurrence and during the continuance of any Event of Default under this Mortgage, Mortgagee shall have the rights and remedies of a secured party under the UCC, as well as all other rights and remedies available at law or in equity, and, at Mortgagee's option, Mortgagee may also invoke the rights and remedies provided elsewhere in this Mortgage as to such property.

(b) This Mortgage constitutes a "fixture filing" under the UCC in the real estate records of the county in which the Mortgaged Property is located with respect to any and all fixtures included within the term "Mortgaged Property" and with respect to any goods or other personal property that may now be or hereafter become such a fixture. A statement describing the portion of the Mortgaged Property comprising the fixtures secured is set forth in the definition of "Mortgaged Property" on page 4 of this Mortgage.

(c) For purposes of the UCC, Mortgagor is the "Debtor" and Mortgagee is the "Secured Party" and their names and mailing addresses are set forth in the first paragraph on page 1 of this Mortgage.

(d) The information provided in this Section 7 is provided so that this Mortgage shall comply with the requirements of the UCC for a mortgage instrument to be filed as a financing statement. Mortgagor represents and warrants to Mortgagee that Mortgagor is the record owner of the Mortgaged Property.

8. Default and Acceleration. The occurrence of each of the following shall constitute an "Event of Default" for purposes of this Mortgage:

(a) Any representation or warranty made in this Mortgage or in any other Loan Document that is false in any material respect at the time made or deemed to be made or any failure of Mortgagor to comply with or perform any covenant or other provision of this Mortgage;

(b) Any Transfer not expressly permitted by the Credit Agreement is made without the prior written consent of Mortgagee or any failure to maintain the Required Insurance or to pay the premiums for any such policy, as the same become payable;

(c) Any Event of Default under the Credit Agreement;

(d) The condemnation, seizure, taking or appropriation of, or the occurrence of uninsured loss, damage, destruction or casualty with respect to, any material portion of the Mortgaged Property, as determined by Mortgagee;

(e) The actual or threatened alteration, demolition or removal of any of the Improvements or the Additions which materially and adversely affects, or may reasonably be expected to materially and adversely affect, the Mortgaged Property or the Mortgagor's business, operations or financial condition, except as expressly permitted by the terms and conditions of this Mortgage or the other Loan Documents;

(f) The liquidation or the sale, conveyance, transfer, encumbrance, pledge, or assignment of substantial assets of Mortgagor or any guarantor of any of the Indebtedness (each, a "Guarantor");

(g) Mortgagor or any Guarantor (i) institutes or consents to any proceedings in insolvency or bankruptcy, or for the adjustment, liquidation, extension or composition, or arrangement of debts; or for any other relief; under any bankruptcy or insolvency law, statute, ordinance, rule or regulation relating to the relief or reorganization of debtors, (ii) is adjudicated a bankrupt, files an answer admitting bankruptcy or insolvency, or in any manner is adjudged insolvent, (iii) makes an assignment for the benefit of creditors, or (iv) admits in writing an inability to pay debts as they become due;

(h) Any proceeding (i) in insolvency or bankruptcy, (ii) for the adjustment, liquidation, extension or composition, or arrangement of debts, or (iii) for any other relief, under any bankruptcy or insolvency law, statute, ordinance, rule or regulation relating to the relief or reorganization of debtors, is instituted against Mortgagor or any Guarantor, and such proceeding is not discharged or dismissed within sixty (60) days after the proceeding is commenced;

(i) Any portion of the Mortgaged Property, or any substantial portion of the other property or assets of Mortgagor or any Guarantor, is placed in the hands of any receiver, trustee, or other officer or representative of any court, or Mortgagor or any Guarantor consents, agrees, or acquiesces to the appointment of any such receiver or trustee, and such proceeding or appointment is not discharged or dismissed within the earlier to occur of (i) sixty (60) days after such property or assets are placed in the hands of such receiver, trustee, or other officer or (ii) sixty (60) days from Mortgagor's or any Guarantor's consent to the appointment of such receiver or trustee;

(j) Mortgagor's title to the Mortgaged Property, or any material portion thereof, becomes the subject matter of litigation which, as determined by Mortgagee (with due consideration of any policy or policies of title insurance insuring the same) will result in substantial impairment or loss of the security intended to be provided by the lien of this Mortgage; or

(k) Mortgagor shall assign or delegate any of its rights or obligations hereunder or under any other Loan Document.

9. Remedies. Mortgagor expressly agrees that time is of the essence of this Mortgage. If there is an Event of Default, then, at any time thereafter:

(a) At the option of Mortgagee, (i) all principal of, and interest on, the Indebtedness; and (ii) any fee, charge, and other amount owed to Mortgagee hereunder or under the Note or any other Loan Document; immediately shall become due and payable, without any notice, presentment for payment, demand, notice of demand and dishonor, or protest and notice of protest and nonpayment, all of which expressly are waived by Mortgagor; provided that, if an event described in subsection 8(g) or subsection 8(h) occurs, then: (i) all principal of, and interest on, the Indebtedness; and (ii) any fee, charge, and other amount owed to Mortgagee hereunder or under the Note or any other Loan Document; immediately shall become due and payable;

(b) Mortgagee immediately shall have the right (and such right shall be exercisable until the Event of Default is cured) to (i) foreclose the lien of this Mortgage against all or any part of the Mortgaged Property; (ii) enforce in whole or in part every security interest granted by this Mortgage and any other Loan Document; (iii) subsequently foreclose the lien of this Mortgage against all or any part of the remaining Mortgaged Property; (iv) enforce in whole or in part any remaining security interest granted by this Mortgage or any other Loan Document; (v) institute any proceeding that Mortgagee may deem to be necessary or appropriate for the protection of its interests (including, without limitation, a proceeding for injunction or for specific performance with respect to the terms and conditions of this Mortgage and any other Loan Document); (vi) withhold any

further disbursements of the proceeds of the loans; (vii) cure the Event of Default for the account of Mortgagor (including, without limitation, paying any delinquent taxes, assessments, and premiums for the policies of insurance required to be maintained by Mortgagor under the Note or the other Loan Documents including this Mortgage); and/or (viii) exercise any other right or remedy granted under any of the other Loan Documents;

(c) In addition, during the continuance of any Event of Default, to the full extent necessary to satisfy the Indebtedness, Mortgagee shall have all the remedies of a secured party under the UCC and as otherwise provided by applicable law, including but not limited to the following: Mortgagee may take possession of the Personal Property and may use it after having done so. For purposes of taking possession, Mortgagee may enter upon any premises on which the Personal Property may be situated without legal process and remove the Personal Property. Mortgagor releases Mortgagee from any claims arising from such removal and shall hold Mortgagee harmless from any liability resulting therefrom. Mortgagee may require Mortgagor to assemble the Personal Property and make it available at a place to be designated by Mortgagee which is reasonably convenient to all parties. Unless the Personal Property is perishable, threatens to decline speedily in value or is of a type customarily sold on a recognized market, Mortgagee shall give Mortgagor at least ten (10) days' prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. Mortgagor agrees that such notice constitutes a "reasonable time" within the meaning of Section 9-612(a) of the UCC. Upon any such sale Mortgagee shall have the right to deliver, assign and transfer to the purchaser thereof the Personal Property so sold. Each purchaser at any such sale shall hold the Personal Property so sold to it absolutely and free from any claim or right of whatsoever kind, including any equity or right of redemption of Mortgagor which may be waived, and Mortgagor, to the extent permitted by law, hereby specifically waives all rights of redemption, stay or appraisal which it has or may have under any law now existing or hereafter adopted. The notice (if any) of such sale shall (1) in case of a public sale, state the time and place fixed for such sale, (2) in the case of a private sale, state the day after which such sale may be consummated, and (3) contain any such other information as Mortgagee deems necessary to comply with the requirements of Section 9-613 of the UCC, including without limitation (a) a description of Mortgagor and Mortgagee, (b) a description of the Personal Property that is to be so sold, (c) method of intended disposition, and (d) a statement that Mortgagor is entitled to an accounting. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as Mortgagee may fix in the notice of such sale. At any such sale the Personal Property may be sold in one lot as an entirety or in separate parcels, as Mortgagee may determine. Mortgagee shall not be obligated to make any such sale pursuant to any such notice. Mortgagee may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for the sale, and such sale may be made

at any time or place to which the same may be so adjourned. In case of any sale of all or any part of the Personal Property on credit or for future delivery, the Personal Property so sold may be retained by Mortgagee until the selling price is paid by the purchaser thereof, but Mortgagee shall not incur any liability in case of the failure of such purchaser to take up and pay for the Personal Property so sold and, in case of any such failure, such Personal Property may again be sold upon like notice. Mortgagee, instead of exercising the power of sale herein conferred upon it, may proceed by a suit or suits at law or in equity to foreclose its security interests and sell the Personal Property, or any portion thereof, under a judgment or decree of a court or courts of competent jurisdiction. The expenses of retaking, holding, preparing for sale, selling and the like, and reasonable attorneys' fees and expenses incurred by Mortgagee, may be paid from the proceeds of the disposition. Mortgagee may obtain the appointment of a receiver respecting the Personal Property upon such notice as may be required by applicable law and without notice if permitted by such law, and may obtain immediate possession thereof in replevin. Insofar as Personal Property shall consist of Accounts, insurance policies, instruments, chattel paper, choses in action or the like, Mortgagee may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose or realize upon Personal Property, whether or not then due, and as Mortgagee may determine, for the purpose of realizing Mortgagee's rights therein, Mortgagee may receive, open and dispose of mail addressed to Mortgagor and endorse notes, checks, drafts, money orders, documents of title or other evidences of payment, shipment or storage or any form of Personal Property on behalf of and in the name of Mortgagor, as its attorney in fact. All remedies of Mortgagee shall be cumulative to the full extent provided by law. Pursuit by Mortgagee of certain judicial or other remedies shall not abate nor bar resort to other remedies with respect to the Personal Property, and pursuit of certain remedies with respect to all or some of the Personal Property shall not bar other remedies with respect to the Indebtedness or to other portions of the Personal Property. Mortgagee may exercise its rights to the Personal Property without resorting or regard to other collateral or sources of security or reimbursement for the Indebtedness; and

(d) To the extent the laws of the State of Louisiana limit (i) the availability of the exercise of any of the remedies set forth in this Mortgage, including without limitation, the remedies involving a power of sale on the part of the Mortgagee and the right of the Mortgagee to exercise self-help in connection with the enforcement of the terms of this Mortgage, or (ii) the enforcement of waivers and indemnities made by Mortgagor, such remedies, waivers, or indemnities shall be exercisable or enforceable, any provisions in this Mortgage to the contrary notwithstanding, if, and to the extent, permitted by the laws in force at the time of the exercise of such remedies or the enforcement of such waivers or indemnities without regard to the enforceability of such remedies, waivers or indemnities at the time of the execution and delivery of this Mortgage.

(e) All costs and expenses incurred by Mortgagee in exercising or enforcing any of its rights or remedies hereunder shall: (i) be paid by Mortgagor upon demand by Mortgagee, together with interest thereon from the date of demand until payment in full at the Default Rate and (ii) constitute a part of the Indebtedness.

10. Possession of Mortgaged Property During Default.

(a) During the continuance of any Event of Default, Mortgagee (or any person, firm or corporation designated to act on behalf of Mortgagee), with the irrevocable consent of Mortgagor herein given, (i) may enter into and upon all or any part of the Mortgaged Property, may exclude Mortgagor therefrom and may hold, use, administer, operate, manage and control the Mortgaged Property, exercise all rights, privileges and powers of Mortgagor with respect thereto and conduct the business thereof, all to the same extent Mortgagor could do so, and (ii) at the expense of Mortgagor and from time to time, may maintain and restore or complete the Improvements and in the course of completion may make such reasonable changes in the Improvements as Mortgagee deems necessary. Mortgagee shall be entitled to collect and receive all the Rents, and at the option of Mortgagee (without any obligation to do so) to deduct therefrom the reasonable expenses of operating and conducting the business of the Mortgaged Property and of all reasonable maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for taxes, assessments, insurance and prior or other proper charges upon the Mortgaged Property, as well as reasonable compensation for the services of Mortgagee.

(b) Any Expenses (as defined in Section 11 below) of operating and conducting the business of the Mortgaged Property or as are otherwise incurred by Mortgagee pursuant to the provisions of this Section 10 which remain unpaid after application of such Rents shall constitute Indebtedness secured by this Mortgage and shall be immediately due and payable by Mortgagor, without notice and with interest thereon at the Default Rate. If Mortgagee shall exercise its rights as stated in this Section 10, Mortgagee shall apply the net amounts received or collected by it, after payment of Expenses as aforesaid, to the payment of the Indebtedness in accordance with the terms and conditions of the Credit Agreement.

11. Expenses. All reasonable costs, expenses and other liabilities (including without limitation, reasonable attorneys' fees) which Mortgagee may incur ("Expenses") (a) in enforcing, defending, construing or administering this Mortgage (or its priority), (b) for any inspection, evaluation, appraisal, survey or other service in connection with any of the Mortgaged Property, (c) for any title examination or title insurance policy relating to the title to any of the Mortgaged Property, (d) in connection with any environmental cleanup or decontamination, or any other cost, expense, fines, penalties or other liability incurred by Mortgagee with respect to the Mortgaged Property under or pursuant to any state or federal environmental law, statute, ordinance, rule or regulation or in an attempt to comply with the same or (e) in the exercise by

Mortgagee of any rights or remedies granted by this Mortgage, in any and every such case, all Expenses shall be paid by Mortgagor upon demand by Mortgagee, together with interest thereon, from the date of demand until payment in full, at the Default Rate and shall constitute a part of the Indebtedness secured by this Mortgage.

12. Foreclosure Proceedings and Receiver.

(a) Immediately upon receiving actual notice of the commencement of any action, suit or other legal proceeding by Mortgagee to obtain judgment for any part of the Indebtedness or of any other nature in aid of the enforcement of the Loan Documents or this Mortgage, Mortgagor will waive the issuance and service of process and enter its voluntary appearance in such action, suit or proceeding, and hereby (i) agrees and consents to the appointment of a receiver or receivers of the Mortgaged Property in any such action, suit or legal proceeding and (b) covenants that, at Mortgagee's request, Mortgagor will execute a written consent or agreed order to be filed in such action, suit or legal proceeding for the purpose of obtaining the appointment of a receiver or receivers. Subject to the rights of tenants or occupants in possession, upon (a) the commencement of any proceedings to foreclose this Mortgage or to enforce the specific performance hereof or in aid thereof or (ii) the commencement of any other judicial proceeding to enforce any right of Mortgagee, Mortgagee shall be entitled forthwith, as a matter of right, if it shall so elect, without the giving of notice to any other party, without regard to the adequacy or inadequacy of any security for the Indebtedness and without the requirement of any bond, to the appointment of such a receiver or receivers. To the extent it lawfully may do so, Mortgagor will not at any time insist upon, plead or in any other manner whatever claim or take any benefit or advantage of any valuation or appraisal law now or hereafter in force, or of any exemption from execution or sale of the Mortgaged Property now or at any time hereafter in force. Mortgagor hereby expressly waives, to the extent allowed by law, all right to have the Mortgaged Property marshaled upon any foreclosure of this Mortgage. Mortgagee shall be entitled to recover judgment as aforesaid either before, after or during the pendency of any proceedings for the enforcement of this Mortgage. The right of Mortgagee to recover such judgment shall not be affected by (a) any entry or sale hereunder, (b) the exercise of any other right, power or remedy for the enforcement of this Mortgage or (c) the foreclosure of the lien of this Mortgage. Upon any sale made under or by virtue of this Mortgage, Mortgagee may bid for and acquire the Mortgaged Property, or any part thereof, and, in lieu of paying cash therefor, may make settlement for the purchase price by crediting the net sales price upon the Indebtedness.

(b) Louisiana Remedies

(i) **Seizure and Sale of Mortgaged Property.** In the event that Mortgagee elects to commence appropriate Louisiana foreclosure proceedings under this Mortgage, Mortgagee may cause the Mortgaged Property, or any part or parts thereof, to be immediately seized and sold, whether in term of court or in vacation, under ordinary or executory process, in accordance with applicable Louisiana law, to the highest bidder for cash, with or without appraisal, and without the necessity of making additional demand upon or notifying Mortgagor or placing Mortgagor in default, all of which are expressly waived.

(ii) **Confession of Judgment.** For purposes of foreclosure under Louisiana executory process procedures, Mortgagor confesses judgment and acknowledges to be indebted to Mortgagee, up to the full amount of the Indebtedness in principal, interest, costs, expenses, reasonable attorneys' fees and other fees and charges. Mortgagor further confesses judgment and acknowledges to be indebted unto and in favor of Mortgagee in the amount of all additional advances that Mortgagee may make on Mortgagor's behalf pursuant to this Mortgage, together with interest thereon. To the extent permitted under applicable Louisiana law, Mortgagor additionally waives: (1) the benefit of appraisal as provided in Articles 2332, 2336, 2723, and 2724 of the Louisiana Code of Civil Procedure, and all other laws with regard to appraisal upon judicial sale; (2) the notice of seizure as provided under Articles 2293 and 2721 of the Louisiana Code of Civil Procedure; (3) the three (3) days' delay provided under Articles 2331 and 2722 of the Louisiana Code of Civil Procedure; and (4) all other benefits provided under Articles 2331, 2722 and 2723 of the Louisiana Code of Civil Procedure and all other Articles not specifically mentioned above. Mortgagor further agrees that any declaration of fact made by authentic act before a Notary Public and two witnesses, by a person declaring that such facts are within his or her knowledge, shall constitute authentic evidence of such facts for purposes of foreclosure under applicable Louisiana law and for purposes of La. R.S. 9:3504(D)(6) and La. R.S. 10:9-629, to the extent applicable.

(iii) **Keeper.** Should any or all of the Mortgaged Property be seized as an incident to an action for the recognition or enforcement of this Mortgage, by executory process, sequestration, attachment, writ of fieri facias or otherwise, Mortgagor hereby agrees that the court issuing any such order shall, if requested by Mortgagee, appoint Mortgagee, or any agent designated by Mortgagee or any person or entity named by Mortgagee at the time such seizure is requested, or any time thereafter, as Keeper of the Mortgaged Property as provided under La. R.S. 9:5136, et seq. Such a Keeper shall be entitled to reasonable compensation. Mortgagor agrees to pay the reasonable fees of such Keeper, which compensation to the Keeper shall also be secured by this Mortgage in the form of an additional advance as provided in this Mortgage.

(iv) **Declaration of Fact.** Should it become necessary for Mortgagee to foreclose under this Mortgage, all declarations of fact, which are made under an authentic act before a Notary Public in the presence of two witnesses, by a person declaring such facts to lie within his or her knowledge, shall constitute authentic evidence for purposes of executory process and also for purposes of La. R.S. 9:3509.1, La. R.S. 9:3504(D)(6) and La. R.S. 10:9 629, where applicable.

(v) **Specific Performance.** Mortgagee may, in addition to or in lieu of the foregoing remedies, in Mortgagee's sole discretion, commence an appropriate action against Mortgagor seeking specific performance of any covenant contained in this Mortgage or in aid of the execution or enforcement of any power in this Mortgage granted.

13. **No Exclusive Remedy.** Each and every right, power and remedy herein conferred upon, or reserved to, Mortgagee (a) is cumulative and is not intended to be exclusive of any other remedy or remedies and (b) shall be in addition to every other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Mortgagee in the exercise of any right, power or remedy or any other right, power or remedy

then or thereafter existing, shall constitute or shall be construed to be a waiver of any Event of Default or any acquiescence therein, and every right, power and remedy given by this Mortgage to Mortgagee may be exercised from time to time as often as and in such order as may be deemed expedient by Mortgagee.

14. Assignment of Leases and Rents.

(a) To secure payment and performance by Mortgagor of the Indebtedness, Mortgagor hereby grants, transfers and pledges to Mortgagee all of Mortgagor's rights, title and interests in, to and under all Leases now existing or hereafter entered into, and all Rents (including without limitation, all rentals reserved in any of the Leases now or hereafter due and any amendments, modifications, extensions and renewals thereof). This assignment is given to the fullest extent allowed by La. Civ. Code arts. 3168 *et seq.* and La. R.S. 9:4401 *et seq.* to secure the Indebtedness up to the Maximum Amount.

(b) Until the occurrence of an Event of Default, Mortgagor shall have the right to collect and receive, upon but not prior to accrual, all Rents with respect to the Mortgaged Property. Subject to applicable law and the rights of tenants and occupants in possession, upon or at any time after the occurrence of an Event of Default and during the continuance, Mortgagee, at its option and without notice or demand, may (i) enter upon, take possession of and operate the Mortgaged Property, as lessor, (ii) enforce, amend, modify, change, renew, extend, cancel, terminate, release and accept the surrender of any or all of the Leases, (iii) obtain orders of eviction and evict any of the tenants or occupants, (iv) fix or modify rents, (v) do any acts which Mortgagee reasonably deems proper to protect the security hereof, and (vi) in its own name, sue for or otherwise collect and receive all Rents (including without limitation, those past due and unpaid). Such rights may be exercised by Mortgagee without regard to other security, if any, for payment of the Indebtedness and without releasing Mortgagor or any Guarantor. Mortgagor hereby irrevocably appoints and constitutes Mortgagee as its true and lawful attorney-in-fact with full power of substitution for and on behalf of Mortgagor to, from and after the occurrence and during the continuance of any Event of Default, (i) request, demand, enforce payment of, collect and receive the Rent, (ii) amend, modify, change, renew, extend, cancel, terminate and release any of the Leases or any of the terms or conditions thereof (including without limitation, the Rents thereunder), (iii) endorse any checks, drafts or orders evidencing payment of Rents and (iv) do and perform any acts which Mortgagor might do for and on Mortgagor's own behalf.

(c) All Rents collected by Mortgagee or a receiver pursuant to this Section 14 shall be applied, in such amounts and in such order as Mortgagee shall determine in its sole discretion, against the outstanding Indebtedness secured hereby, and if Mortgagee so elects (without any obligation to do so), against the costs of taking control of, and managing and operating, the Mortgaged Property

and collecting the Rents (including without limitation, reasonable attorney fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Mortgaged Property, premiums on insurance policies, taxes, assessments and other charges on the Mortgaged Property, and the costs of discharging any obligation or liability of Mortgagor as lessor or landlord of the Mortgaged Property) ("Operating Expenses"). Any and all Rents applied against Operating Expenses shall not reduce, or be deemed to reduce, the amount of outstanding Indebtedness secured hereby. Mortgagee shall (i) have access to the books and records used in the operation and maintenance of the Mortgaged Property and (ii) be liable to account only for those Rents actually received. Mortgagee shall not be liable to anyone claiming under or through Mortgagor or anyone having an interest in the Mortgaged Property by reason of any act or omission by Mortgagee under the assignment made by this Section 14, excepting for Mortgagee's gross negligence or willful, wanton or reckless misconduct.

(d) If the Rents collected by Mortgagor are not sufficient to meet the costs of taking control of, and managing, the Mortgaged Property and collecting the Rents in the event Mortgagee elects to take such action, (i) any funds expended by Mortgagee for such purposes shall become Indebtedness of Mortgagor to Mortgagee secured by this Mortgage, and (ii) such amounts shall be payable upon notice from Mortgagee to Mortgagor requesting payment thereof and shall bear interest from the date of such notice until repaid at the Default Rate.

(e) The entering upon, and taking and maintaining of control of, the Mortgaged Property by Mortgagee or a receiver and the application of Rents as provided herein shall not cure or waive any Event of Default or invalidate any other right or remedy of Mortgagee hereunder or under any other Loan Document.

(f) Mortgagor hereby covenants and warrants to Mortgagee that (i) Mortgagor is and will remain the lawful owner of the Leases and the Rents and has not made any prior assignment of Mortgagor's right, title and interest in, to and under any of the Leases or the Rents, (ii) Mortgagor has not accepted any advance payments of Rents other than one month's advance rentals and security deposits, (iii) Mortgagor has not executed or granted, and will not execute or grant, any modification or amendment of any of the Leases, and (iv) Mortgagor has not done, and will not do, anything which impairs the validity or security of this assignment.

(g) The assignment made in this Section 14 shall not operate to release or relieve Mortgagor, as lessor under the Leases, from the full performance of all of Mortgagor's obligations, covenants and agreements under the Leases. Mortgagor shall (i) faithfully abide by, perform and discharge each and every material obligation, covenant and agreement to be performed by Mortgagor under the Leases, (ii) give prompt notice to Mortgagee of any notice of default on the part of Mortgagor given or made by any tenant or occupant under any of the Leases, and (iii) at the sole cost and expense of Mortgagor, enforce, short of cancellation or

termination of the Leases, or secure the performance of, each and every material obligation, covenant, condition and agreement to be performed by the tenants and occupants under the Leases. Mortgagor shall not further encumber its rights, title and interest in and to the Leases or the Rents. Mortgagor shall not (i) anticipate Rents under the Leases or (ii) waive, excuse, condone or in any manner release or discharge any tenant or occupant of or from the material obligations, covenants, conditions and agreements to be performed by such tenant or occupant (including without limitation, the obligation to pay Rents in the manner and at the place and time specified in the Leases).

(h) Mortgagor shall, at Mortgagor's sole cost and expense, (i) appear in and defend any action or proceeding arising under, growing out of, or in any manner connected with, the Leases, the Rents or the obligations, duties or liabilities of Mortgagor or the tenants or occupants under the Leases and (ii) pay all costs and expenses, with interest thereon at the Default Rate (including without limitation, reasonable attorney fees incurred by Mortgagee in any such action or proceeding in which Mortgagee may appear), all such expenses being Indebtedness secured by this Mortgage.

(i) Upon an Event of Default that is continuing, Mortgagee, at its option but without the assumption of any of Mortgagor's obligations as lessor and without notice to, or demand on, Mortgagor, and without releasing Mortgagor from any obligation under the Leases or this Mortgage, may perform any obligation of Mortgagor under any of the Leases. In the exercise of such power, Mortgagee shall be entitled to reimbursement by Mortgagor for all of Mortgagee's costs and expenses (including without limitations, reasonable attorney fees), and the same shall be (i) payable upon demand, with interest thereon from the date paid or incurred at the Default Rate, and (ii) Indebtedness secured by this Mortgage.

(j) Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability of Mortgagor under the Leases or otherwise. Mortgagee shall not be liable for any loss sustained by the Mortgagor resulting from Mortgagee's failure to let the Mortgaged Property after any Event of Default or from any other act or omission of the Mortgagee in taking, maintaining control of, or managing the Mortgaged Property after any Event of Default, unless such loss is caused by the gross negligence or the willful, wanton or reckless misconduct and bad faith of Mortgagee. Mortgagor agrees to indemnify Mortgagee against and hold it harmless from any and all liability, loss or damage which it may or might incur (i) under the Leases, (ii) under or by reason of this assignment and (iii) of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. In the event Mortgagee incurs any such liability, loss or damage, the amount thereof (including without limitation, costs, expenses and reasonable attorney fees), together with

interest at the Default Rate, shall be (i) payable by Mortgagor upon demand, with interest thereon from the date paid or incurred at the Default Rate, and (ii) is Indebtedness secured by this Mortgage. This assignment shall not operate to place responsibility for the control, care, management or repair of the Mortgaged Property or any improvements thereon upon Mortgagee, nor shall it operate to make the Mortgagee responsible or liable for any waste committed on the Mortgaged Property or for any dangerous or defective condition of the property, unless and until Mortgagee, in person or by agent, assumes actual possession of the Mortgaged Property.

(k) Mortgagor hereby authorizes and directs each and every tenant and occupant of the Mortgaged Property, or any part thereof, to (i) pay directly to Mortgagee all Rents upon receipt by such tenant or occupant from Mortgagee of a written notice which states that an Event of Default exists under this Mortgage ("Default Notice") and (ii) continue to pay all Rents directly to Mortgagee after receipt of such Default Notice, until otherwise notified by the Mortgagee. Mortgagor agrees to facilitate in all reasonable ways Mortgagee's collection of the Rents, and upon request, will execute a written notice to each tenant and occupant directing payment to the Mortgagee. Mortgagor hereby agrees to indemnify and hold harmless each and every tenant and occupant of the Mortgaged Property from any and all claims and actions of any party to any Rents paid by such tenants and occupants to Mortgagee after receipt of a Default Notice, and Mortgagor hereby waives any and all claims against such tenants and occupants for any such Rents paid to Mortgagee after receipt of a Default Notice. If Mortgagor cures the Event of Default to Mortgagee's satisfaction, Mortgagee shall notify tenants and occupants that the Default Notice has been rescinded.

(l) Upon the payment in full of all of the Indebtedness secured hereby and the termination of all commitments of Mortgagee to Mortgagor, the assignment made in this Section 14 shall terminate.

15. General Authority. Mortgagor hereby irrevocably appoints Mortgagee its true and lawful attorney-in-fact, with full power of substitution, in the name of Mortgagor, Mortgagee or otherwise, for the sole use and benefit of Mortgagee, but at Mortgagor's expense, to the extent permitted by law, to exercise, at any time and from time to time while an Event of Default has occurred and is continuing, all or any of the following powers with respect to all or any of the Mortgaged Property:

(a) To demand, sue for, collect, receive and give acquittance for any and all monies due or to become due thereon or by virtue thereof;

(b) To settle, compromise, compound, prosecute or defend any action or proceeding with respect thereto;

(c) To sell, transfer, assign or otherwise deal in or with the Mortgaged Property or the proceeds or avails thereof, as fully and effectively as if Mortgagee were the absolute owner thereof;

(d) To extend the time of payment of any or all thereof and to make any allowance and other adjustments with reference thereto; and

(e) To make all necessary or appropriate transfers of all or any part of the Mortgaged Property in connection with any sale, lease or other disposition thereof pursuant to this Mortgage, and to execute and deliver any documents necessary or appropriate to effect, evidence or facilitate such sale, lease or other disposition.

16. Provisions Severable. In the event any one or more of the terms or conditions of this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Mortgagee, not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. The invalidity of any provision of this Mortgage in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

17. Further Assurances and Fees. Mortgagor will, at the cost of Mortgagor and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further act, deed, conveyance, mortgage, security agreement, assignment, notice of assignment, transfer and assurance as Mortgagee shall from time to time reasonably require, for (a) the better assuring, conveying, assigning, transferring, securing and confirming unto Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which Mortgagor may be, or may hereafter become, bound to convey or assign to Mortgagee, (b) carrying out the intention or facilitating the performance of the terms and conditions of this Mortgage or (c) filing, registering or recording this Mortgage. Mortgagor shall pay for (a) filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any financing statement and continuation statement and any instrument of further assurance, and (b) all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of, or in connection with, the execution and delivery of this Mortgage, any mortgage supplemental hereto, or any instrument of further assurance. Such amounts shall be (i) payable upon demand, with interest thereon from the date of the demand at the Default Rate, and (ii) Indebtedness secured by this Mortgage.

18. Defense of Claims. Mortgagor promptly shall (a) notify Mortgagee in writing of the commencement, or threat of institution, of any legal proceedings affecting, or which may affect, Mortgagee's interest in the Mortgaged Property, or any part thereof, and (b) take such action, employing attorneys satisfactory to Mortgagee, as may be necessary to fully preserve, protect and defend Mortgagor's and Mortgagee's rights affected thereby. Upon notice to Mortgagor, Mortgagee may take such independent action in connection therewith as Mortgagee in its reasonable discretion may deem proper. Mortgagor shall indemnify and save Mortgagee

harmless from any loss, damage, cost, expense or reasonable attorneys' fees which may be incurred by Mortgagee by reason of any suit or proceeding to which Mortgagee is made a party on account of this Mortgage, and any loss, damage, expense or attorney fees so incurred by Mortgagee shall be a part of the Indebtedness secured by this Mortgage and shall be immediately due and payable by Mortgagor, without notice and with interest thereon at the Default Rate. In the event Mortgagee pays, discharges or satisfies, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property, or any part thereof, Mortgagee shall be subrogated to the rights of the holder of such lien as fully as if such lien had been assigned to Mortgagee.

19. Applicable Law. This Mortgage shall be governed by the substantive laws of the State of Louisiana without resort to its conflicts of law rules or principles. In the event that any provision of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provisions, and to this end the provisions of this Mortgage are declared to be servable.

20. Successors and Assigns. The grants, terms and conditions of this Mortgage shall (a) run with the land, (b) apply and extend to, be binding upon, and inure to the benefit of, Mortgagor and its successors and assigns and all parties claiming under or through Mortgagor, with the word "Mortgagor," when used herein, including all such parties, and (c) apply and extend to, be binding upon, and inure to the benefit of, Mortgagee and its successors and assigns, with the word "Mortgagee," when used herein, including the successors and assigns of Mortgagee.

21. Waiver of Right to Trial by Jury. MORTGAGOR AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT SHALL BE TRIED AND LITIGATED (A) IN THE STATE COURTS LOCATED IN THE COUNTY WHERE THE REAL ESTATE IS LOCATED, OR THE FEDERAL COURTS WITH VENUE WHICH INCLUDES THE COUNTY WHERE THE REAL ESTATE IS LOCATED, OR (B) AT THE SOLE OPTION OF MORTGAGEE, IN ANY OTHER COURT IN WHICH MORTGAGEE SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. MORTGAGOR AND MORTGAGEE WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, THE RIGHT TO A TRIAL BY JURY AND ANY RIGHT MORTGAGOR OR MORTGAGEE MAY HAVE TO ASSERT THE DOCTRINE OF "FORUM NON CONVENIENS" OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

22. Miscellaneous. The captions used in this Mortgage are for convenience only and are not to be construed as defining or limiting the provisions of this Mortgage. Any and all covenants and agreements in this Mortgage from time to time may by instrument in writing signed by Mortgagee be waived to such extent and in such manner as Mortgagee may desire, but no such waiver shall affect or impair Mortgagee's rights hereunder, except to the extent specifically stated in such written instrument. No waiver by Mortgagee of any Event of Default shall constitute a waiver of, or consent to, any subsequent Event of Default. All changes to, or amendments or modifications of, this Mortgage must be in writing signed by Mortgagee and Mortgagor and, if this Mortgage is recorded, shall not be effective until being recorded. Wherever used, the singular

number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession of the Mortgaged Property in the absence of a taking of actual possession of the Mortgaged Property by Mortgagee. In the exercise of the powers herein granted Mortgagee, no liability shall be asserted or enforced against Mortgagee by Mortgagor, all such liability and claims of liability being expressly waived and released by Mortgagor, excepting for liability due to Mortgagee's gross negligence or willful, wanton or reckless misconduct. All notices given pursuant to this Mortgage shall be given in accordance with the Credit Agreement.

23. Louisiana Terms. As used in this Mortgage, the following definitions shall apply, unless the context requires otherwise: the terms "real property" and "real estate" shall be deemed to include immovable property and the component parts thereof; the term "fee estate" shall include full ownership; the term "personal property" shall be deemed to include movable property; the term "tangible property" shall be deemed to include corporeal property; the term "intangible property" shall be deemed to include incorporeal property; the term "easements" shall be deemed to include servitudes; the term "buildings" shall be deemed to include other constructions; the phrase "covenant running with the land" and other words of similar import shall be deemed to include a real right or a recorded lease of immovable property; the term "county" shall be deemed to mean parish; the term "joint and several liability" shall be deemed to include in solido liability; the terms "deed in lieu of foreclosure", "conveyance in lieu of foreclosure" and words of similar import shall include a "dation en paiement; references to a "receiver" or words of similar import shall include a keeper appointed pursuant to La. R.S. 9:§§ 5136 et seq.

24. Paraph. Mortgagor acknowledges that no promissory note or other instrument has been presented to the undersigned Notary Public to be paraphed for identification herewith.

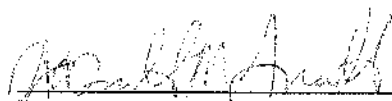
25. Acceptance by Mortgagee. In accordance with the provisions of Louisiana Civil Code Article 3289, Mortgagee has accepted the benefits of the Mortgage without the necessity of execution by Mortgagee.

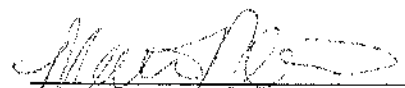
26. Future Advances Mortgage. This Mortgage is intended to secure the Indebtedness, whether now existing or arising at any time hereafter. As to all Indebtedness, whether now existing or arising at any time hereafter, this Mortgage has effect between the parties from the time the Mortgage is established and as to third parties from the time the Mortgage is filed for registry, all as provided by Louisiana Civil Code article 3298.

[SIGNATURE PAGE FOLLOWS]

THUS DONE AND PASSED in Surf City, Pender County, North Carolina, on the date first set forth above, in the presence of the undersigned competent witnesses, who hereunto sign this instrument with the Mortgagor and me, Notary, after due reading of the whole.

WITNESSES:


 Print Name: Gabrielle M. Trench

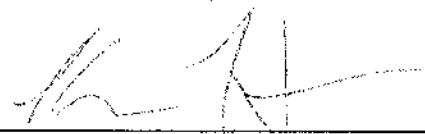

 Print Name: Marissa McEwen

MORTGAGOR:

RH Lakewind East LLC, a Delaware limited liability company

By: Laguna Reserve APTS Investor LLC, its sole member,

By: 
 Stephen Struisha, Manager



Notary Public

Printed Name: Kelsey Henning

My Commission Expires: 9/18/2029

Notary/Bar Roll No.: 202420300058

[SEAL]

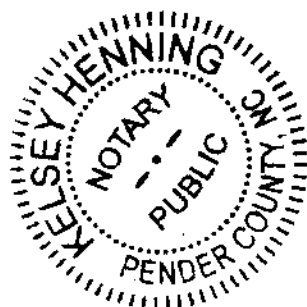


Exhibit A**Real Estate Legal Description**

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of New Orleans, Parish of Orleans, State of Louisiana. Situated in the Third District of the City of New Orleans, State of Louisiana, designated as Parcel 23-E in Section 23 of the LaKratt Tract, being a portion of ground formerly designated as Parcel 23-B of Section 23, and resubdivided in accordance with the plan of resubdivision of J. J. Krebs & Sons, Inc., dated November 30, 1978, and approved by the City Planning Commission for the City of New Orleans on December 21, 1978, registered as Declaration of Title Change on December 26, 1978, in COB 755, folio 498, Parcel 23-E is more fully described as follows: Begin at the intersection of the northerly right of way line of Dwyer Road and the easterly right of way line of Bundy Road; thence N28°00'20"W along the easterly right of way line of Bundy Road a distance of 150.00 feet to a point; thence in a northerly direction along the arc of a curve to the left having a radius of 1,557.41 feet along the easterly right of way line of Bundy Road; with a bearing of N31°9'41"W, a distance of 171.56 feet to a point; thence N61°59'40"E a distance of 1,306.01 feet to a point; thence along a servitude to the Sewerage and Water Board for the Citrus Canal, S29°05'35"E, a distance of 732.61 feet to a point, said point being on the northerly right of way of Dwyer Road; thence S76°18'19"W along the northerly right of way line of Dwyer Road a distance of 930.34 feet to a point; then S85°54'04"W along the northerly right of way line of Dwyer Road a distance of 447.39 feet to a point, the point of beginning.

NOTE: Being Parcel No. 39W016237, of the City of New Orleans, Parish of Orleans.

1340 Poydras Street, 4th Floor
New Orleans, Louisiana 70112



Land Records Division
Telephone (504) 407-0005

Chelsey Richard Napoleon
Clerk of Court and Ex-Officio Recorder
Parish of Orleans

DOCUMENT RECORDATION INFORMATION

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Recording Date: 12/13/2024 04:49:02 PM

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Addl Titles Doc Types:

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OH 44114
1111 SUPERIOR AVE, STE 600
CLEVELAND OH 44114

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