

This Instrument Prepared By:  
MARTINA VELEZ  
A&D MORTGAGE LLC  
1040 S. FEDERAL HIGHWAY  
HOLLYWOOD, FL 33020

After Recording Return To:  
A&D MORTGAGE LLC  
1040 S. FEDERAL HWY  
HOLLYWOOD, FLORIDA 33020

THIS IS A BALLOON MORTGAGE AND THE  
FINAL PRINCIPAL PAYMENT OR THE  
PRINCIPAL BALANCE DUE UPON  
MATURITY IS \$ 126,145.83 ,  
TOGETHER WITH ACCRUED INTEREST, IF  
ANY, AND ALL ADVANCEMENTS MADE  
BY THE MORTGAGE UNDER THE TERMS OF  
THIS MORTGAGE.

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MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE, made this 29th day of OCTOBER, 2014 , between  
MY COMPANY LLC

as Mortgagor and Debtor, whose post office address is 123 JOHNSON STREET, HOLLYWOOD,  
FLORIDA 33020  
("Borrower"), and A&D MORTGAGE LLC

as Mortgagee and Secured Party, whose post office address is 1040 S. FEDERAL HWY  
HOLLYWOOD, FLORIDA 33020  
("Lender");

WITNESSETH :

WHEREAS, Borrower is justly indebted to Lender in the principal sum of ONE HUNDRED  
TWENTY-FIVE THOUSAND AND 00/100  
(\$ 125,000.00 ), as evidenced by a certain Promissory Note (the "Note") of even date herewith,  
executed by Borrower and delivered to Lender, which provides for a maturity date of NOVEMBER 1 ,  
2016 , payable according to the terms therein provided, and by reference being made a part hereof to  
the same extent as though set out in full herein;

NOW THIS INDENTURE WITNESSETH, to secure the performance and observance by the Borrower of  
all the covenants and conditions in the Note and in this Mortgage, and in order to charge the properties, interest and  
rights hereinafter described with such payment, performance and observance, and for and in consideration of the sum  
of TEN and NO/100 DOLLARS (\$10.00) paid by the Lender to the Borrower on or before the delivery of this  
Mortgage, and for other valuable considerations, the receipt of which is hereby acknowledged, the Borrower does  
hereby grant, bargain, sell, alien, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, deliver,  
set over, warrant and confirm unto the Lender, its successors and assigns forever:

THE MORTGAGED PROPERTY

All that certain piece, parcel or tract of land situate in the County of MIAMI DADE and State  
of Florida (hereinafter called the "Land"), more particularly described as follows, to wit:

N.B. THIS IS A FIRST MORTGAGE.

TYPE LEGAL DESCRIPTION HERE, IF LEGAL IS LONGER THAN "7" LINES,  
PLEASE CLICK ATTACHED? "Y" AND THIS FIELD WILL GREY OUT.

TOGETHER WITH all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, equipment, furniture and other tangible personal property of every nature whatsoever now or hereafter owned by the Borrower and located in, on, or used or intended to be used in connection with or with the operation of the Land, buildings, structures or other improvements now or hereafter located on the Land, including all extensions, additions, improvements, betterments, renewals, and replacements to any of the foregoing; and all of the right, title and interest of the Borrower in any such personal property or fixtures, together with the benefit of any deposits or payments now or hereafter made by the Borrower or on its behalf;

TOGETHER WITH all easements, rights of way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower, and the reversion and reversions, remainder and remainders, rents, issues, profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Borrower of, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Mortgage Property or any part thereof under the power of eminent domain, the alteration of the grade of any street, or for any damage (whether caused by such taking or otherwise) to the Mortgaged Property or any part thereof, or to any rights appurtenance thereto, and all proceeds of any sales or other dispositions of the Mortgaged Property or any part thereof;

TOGETHER WITH all rents, royalties, issues, profits, revenue, income and other benefits from the Mortgaged Property to be applied against the indebtedness secured hereby, provided however, that permission is hereby given to Borrower so long as no Default has occurred hereunder, to collect, receive, take, use and enjoy such rents, royalties, issues, profits, revenue, income, licenses, foreclosures, concessions and other benefits as they become due and payable, but not more than two months in advance thereof. Lender shall be entitled, at its option upon the occurrence of a Default hereunder, to all rents, royalties, issues, profits, revenue, income and other benefits from the Mortgaged Property, whether or not Lender takes possession of the Mortgaged Property, from and after the date of such default, it being agreed that the assignment of rents hereunder shall be absolute upon the Borrower's default, in accordance with Section 697.07, Florida Statutes, and if a court of competent jurisdiction shall require Borrower to deposit such rents in the registry of the court pending adjudication of the Lender's right thereto, Borrower agrees that the rents to be deposited shall consist of those which are in the possession, custody or control of Borrower or its agents or employees as of the date of default and all rents paid or payable to or received by Borrower or its agents or employees thereafter. Upon any such occurrence of a Default hereunder, the permission hereby given to Borrower to collect such rents, royalties, issues, profits, revenue, income and other benefits from the Mortgaged Property shall terminate and such permission shall not be reinstated upon a cure of the Default without Lender's express written consent. Exercise of rights under this paragraph, and the application of any such rents, royalties, issues, profits, revenue, income or other benefits to such indebtedness, shall not cure or waive any Default or notice of Default hereunder or invalidate any act done pursuant hereto, but shall be cumulative and in addition to all other rights and remedies of Lender;

TOGETHER WITH all right, title and interest of Borrower in and to any and all leases now or hereafter on or affecting the Mortgaged Property, together with all security therefore and all monies payable thereunder, subject, however, to the conditional permission herein above given to Borrower to collect the rentals under such leases. The foregoing assignment of any leases shall not be deemed to impose upon Lender any of the obligations or duties of Borrower provided in any such leases, and Borrower agrees to fully perform all obligations of the Lessor under all such leases. Upon Lender's request, Borrower agrees to send to Lender a list of all leases covered by the foregoing assignment and as any such lease shall expire or terminate or as any new lease shall be made, Borrower shall so notify Lender in order that at all times Lender shall have a current list of all leases affecting the Mortgage Property. Lender shall have the right, at any time and from time to time, to notify any Lessee of the rights of Lender as provided by this paragraph and any Lessee shall be entitled to rely, with confirmation, on any notice received from Lender. From time to time, upon request of Lender, Borrower shall specifically assign to Lender as additional security hereunder, by an assignment in writing in form approved by Lender, all right, title and interest of Borrower in and to any and all leases now or hereafter on or affecting the Mortgaged Property, together with all security therefor and all monies payable thereunder, subject to the conditional permission herein above given to Borrower to collect the rentals under any such leases. Borrower shall also execute and deliver to Lender any notification, financing statement, or other document reasonably required by Lender to perfect the foregoing assignment as to any such leases;

THIS instrument constitutes an absolute and present assignment of the rents, royalties, issues, profits, revenue, income, and other benefits from the Mortgaged Property, subject, however, to the conditional permission given to Borrower to collect, receive, take, use and enjoy the same as provided herein above; provided, further, that the existence or exercise of such right of Borrower shall not operate to subordinate this assignment to any subsequent

assignment, in whole or in part, by Borrower, and any such subsequent assignment by Borrower shall be subject to the rights of Lender hereunder;

TOGETHER WITH all of Borrower's right, power or privilege to further encumber any of the Mortgaged Property for debt;

TOGETHER WITH all of the proceeds of the conversion, voluntary or involuntary, of any of the Mortgaged Property described herein into cash or other liquidated claims, or that are otherwise payable for injury to, or the taking or requisitioning of, the Mortgaged Property, including all insurance and condemnation proceeds.

TOGETHER WITH all of Borrower's right, title and interest in and to any and all contracts, written or oral, expressed or implied, now existing or hereafter entered into or arising, to the extent such are related to the improvement, use, operation, sale, conversion, or other disposition of any interest in the Mortgaged Property, including any and all deposits, prepaid items, and payments due and to become due thereunder, and including construction contracts, service contracts, advertising contracts, purchase orders, and equipment leases.

TOGETHER WITH all right, title and interest of Borrower, if any, in and to all trade names hereafter used in connection with the operation of the Land, and all related marks, logos, and insignia.

TOGETHER WITH all contract rights, accounts, instruments, and general intangibles, as such terms from time to time are defined in the Uniform Commercial Code, to the extent such are related to the use, operation, sale, conversion, or other disposition (voluntary or involuntary) of the Mortgaged Property, including all such permits, licenses, insurance policies, rights of actions, and other choices in action.

The land, together with any and all of the aforescribed additional property and rights, now or hereafter acquired by Borrower shall sometimes herein be referred to as the "Mortgaged Property".

Borrower (Debtor) hereby grants to Lender (Secured Party) a security interest in the Mortgaged Property to the extent permitted under the Uniform Commercial Code. This Mortgage is a self-operative security agreement with respect to such property, but Borrower agrees to execute and deliver on demand such other security agreements, financing statements, and other instruments as Lender may request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such property. Lender shall have all rights and remedies, in addition to those specified herein, of a secured party under the Uniform Commercial Code.

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto the Lender, its successors and assigns, subject, however, to the terms and conditions herein;

PROVIDED, HOWEVER, that these presents are upon the condition that, if the Borrower shall pay or cause to be paid to the Lender the principal and interest payable in respect to the Note, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by the borrower, and shall keep, perform and observe all and singular the covenants and promises in the Note, and any renewal, extension or modification thereof and in this Mortgage expressed to be kept, performed and observed by and on the part of the Borrower, all without fraud or delay, then this Mortgage, and all the properties, interests and rights hereby granted bargained, sold, aliened, remised, released, conveyed, assigned, transferred, mortgaged, hypothecated, pledged, delivered, set over, warranted and confirmed, shall cease, terminate and be void, but shall otherwise remain in full force and effect;

AND, Borrower covenants and agrees with Lender as follows:

## **ARTICLE ONE PARTICULAR COVENANTS OF BORROWER**

**1.1 Performance of Note and Mortgage.** The Borrower will perform, observe and comply with all the provisions hereof and of the Note secured hereby, and will promptly pay to the Lender the sum of money expressed in the Note with interest thereon and all other sums required to be paid by the Borrower pursuant to the provisions of this Mortgage on the days when payment shall become due, all without deduction or credit for taxes or other similar charges paid by the Borrower, time being of the essence for such payments.

**1.2 Warranty of Title.** The Borrower covenants that it is indefeasibly seized of the Land in fee simple, has good and absolute title to all existing personal property hereby mortgaged and has full power and lawful right to convey and mortgage the same in the manner and form aforesaid. The Borrower hereby makes further assurances to perfect its fee simple interest in the Land as Lender may reasonably require. The Borrower does hereby fully warrant the title to the Mortgaged Property against the lawful claims of all persons whomsoever.

### **1.3 Taxes, Liens, and Utility Charges.**

(a) Borrower covenants and agrees to pay all lawfully imposed taxes and assessments upon the Mortgaged Property on or before the date the same become due and shall not permit such taxes and assessments to become delinquent. Borrower shall acquire and maintain during the life of this Mortgage, at Borrower's expense, a tax service with a company and in a form approved by Lender. Such tax service shall (i) provide Lender with notice of nonpayment of taxes and assessments upon the Mortgaged Property and/or (ii) provide Lender with notice of the amount of taxes and assessments upon the Mortgaged Property, as Lender may require.

(b) The Borrower covenants and agrees to pay or discharge, prior to delinquency, any and all governmental levies that may be made on this Mortgage or the Note or in any other way resulting from the mortgage indebtedness secured by this Mortgage.

(c) The Borrower shall not permit any mechanic's, laborer's, statutory or other lien to remain outstanding upon any of the Mortgaged Property and shall cause same to be released and discharged, or transferred to bond as permitted by law.

(d) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of mortgages or debts secured by mortgages (which are in the nature of documentary stamps or intangible taxes), or the manner of collecting taxes (which are in the nature of documentary stamps or intangible taxes) so as to adversely affect the Lender with respect to this Mortgage, at the option of the Lender, the entire balance of the principal sum secured by this Mortgage and all interest accrued thereon shall without notice become immediately due and payable; provided, however, that Lender shall not be entitled to accelerate the indebtedness under this provision if Borrower pays to Lender the amount of any adverse charge, tax or fee imposed on Lender.

(e) The Borrower will pay when due, and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Mortgaged Property.

### **1.4 Insurance.**

(a) Borrower shall procure for, deliver to and maintain for the benefit of Lender during the term of this Mortgage, original paid-up insurance policies or certified copies of blanket policies of such insurance companies, in such amounts, in such form and substance, and with such expiration dates as are reasonably acceptable to Lender and containing Lender's Loss Payable endorsement (Form 438 B.F.U.), Lender Clause (Form 127B) or other acceptable non-contributory Lender clause, their equivalent or a satisfactory Lender loss payable endorsement in favor of Lender, providing the following types of insurance covering the Mortgaged Property and the interest and liabilities incident to the ownership, possession and operation thereof, to wit:

(i) insurance against loss or damage by Flood (in the event the Land is at any time during the term of this Mortgage designated as flood prone or a flood risk area or flood insurance is required pursuant to the United States Flood Disaster Protection Act of 1973, as amended or supplemented or under any subsequent law then in effect) and by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke, vandalism and malicious mischief and against such other hazard as, under good insurance practices, from time to time are insured against for properties of similar character and location, the amount of which insurance shall not be less than one hundred percent (100%) of the full insurable replacement value of the Mortgaged Property without deduction for depreciation, and which policies of insurance shall contain satisfactory replacement cost endorsements; and

(ii) such other insurance on the Mortgaged Property or any replacement or substitutions therefor and in such amounts as may from time to time be reasonably required by Lender against other insurable casualties which at the time are commonly insured against in the case of properties of similar character and location, due regard being given to the height and type of the improvements, its construction, location, use and occupancy, or any replacements or substitutions therefor.

(b) Lender is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies maintained pursuant to this Paragraph 1.04, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender, instead of to borrower and Lender jointly. In the

event any insurance company fails to disburse directly and solely to Lender but disburses instead either solely to Borrower or to Borrower and Lender jointly, Borrower agrees immediately to endorse and transfer such proceeds to Lender. Upon the failure of Borrower to endorse and transfer such proceeds as aforesaid, Lender may execute such endorsements or transfers for and in the name of Borrower and Borrower hereby irrevocably appoints Lender as Borrower's agent and attorney-in- fact, coupled with an interest, so to do. After deducting from said insurance proceeds all of its expenses incurred in the collection and administration of such sums, including attorney's fees, Lender may apply the net proceeds or any part thereof, at its option, (I) to the payment of the indebtedness, whether or not due and in whatever order Lender elects, (ii) to the repair and/or restoration of the Mortgaged Property, and/or (iii) for any other purposes or objects for which Lender is entitled to advance funds under this Mortgage, all without affecting the security interest created by this Mortgage; and any balance of such moneys then remaining shall be paid thereto. Notwithstanding any provision of this paragraph 1.04, Lender shall hold the proceeds in a non-interest bearing account and make the proceeds of insurance available to reimburse the Borrower or pay on the Borrower's behalf for the repair of the improvements on the Land subject to the following terms and conditions: (a) that Borrower is not then in default under any of the terms, covenants and conditions of the Note, this Mortgage or any other agreement securing the Note and at all times while restoration work progresses no such Default shall occur; (b) that Lender shall first be satisfied that by the expenditure of such insurance proceeds the improvements will be fully restored within a reasonable period of time to its value immediately preceding the loss or damage, free and clear of all liens, except as to the lien of this Mortgage and such other liens as are specifically permitted herein or hereafter consented to by Lender in writing under this Mortgage; (c) that in the event such proceeds shall be insufficient to restore or rebuild such improvements, in Lender's judgment, Borrower shall deposit promptly with Lender funds which, together with the insurance proceeds, shall be sufficient in Lender's judgment to restore and rebuild the property; (d) that Borrower shall make best efforts to obtain a waiver of the right of subrogation from any insurer under such policies of insurance who, at that time, claims that no liability exists as to Borrower or the then owner or the assured under such policies; (e) that the excess of such insurance proceeds above the amount necessary to complete such restoration and compensate Borrower for all other insured losses shall be applied on account of the indebtedness or obligation hereby secured; (f) Lender reviews and approves in writing the plans and specifications for the restoration work; (g) Borrower shall have furnished to Lender for Lender's approval a detailed budget and cost breakdown for said restoration work signed by borrower and describing the nature and type of expenses and amounts thereof estimated by borrower for said restoration work, including, but not limited to, the cost of material and supplies, architect and designer fees, general contractor's fees, and the anticipated monthly disbursement schedule, and Lender shall have given to Borrower written approval of such budget and cost breakdown (if borrower determines that its actual expenses differ from its estimated budget, it will so advise Lender promptly); (h) in Lender's judgment, such restoration work can be completed prior to the maturity of the Note and (i) that Borrower shall deposit with Lender such sums as Lender may reasonably require for the repayment of the installments due under the Note, as specified therein, pending completion of repair. In the event any of such conditions are not or cannot be satisfied, then such insurance proceeds shall be disposed of as otherwise provided above. Under no circumstances shall Lender become obligated to itself take any action to restore such property. No insurance proceeds at any time held by Lender hereunder shall be deemed to be held in trust, and Lender may commingle such proceeds with its general assets. All such work shall be promptly commenced and diligently prosecuted to completion in accordance with the plans and specifications therefore, and such proceeds shall be disbursed upon the disbursing party being furnished with satisfactory evidence of the cost of completion thereof and with architect's certificates, waivers of lien, contractors, and subcontractors' sworn statements, title policy continuations and other evidence of cost and payments so that the disbursing party can verify that the amounts disbursed from time to time are represented by completed and in-place work and that the work is free and clear of mechanic's lien claims. As to each contractor, no payment made prior to the final completion of such contractor's work shall exceed ninety percent (90%) of the value of the work performed from time to time by such contractor and at all times the undisbursed balance of such proceeds remaining in the hands of the disbursing party shall be at least sufficient to pay for the cost of completion of such contractor's work shall exceed ninety percent (90%) of the value of the work performed from time to time by such contractor and at all times the undisbursed balance of such proceeds remaining in the hands of the disbursing party shall be at least sufficient to pay for the cost of completion of the work free and clear of any and all liens. Any surplus which may remain out of said proceeds, after payment of the cost of repair, rebuilding or restoration, shall, at the option of the Lender, be applied on account of the indebtedness secured hereby or be paid to any party entitled thereto as the same appear on the records of the Lender. If the insurance proceeds or any of them are applied to the payment of the sums secured by this Mortgage, any such application of proceeds to principal shall be in such order as Lender may determine and, if after so applying such insurance proceeds the Lender reasonably determines the remaining security to be inadequate to secure the remaining indebtedness, Borrower shall, upon written demand from the Lender prepay on principal such

an amount as will reduce the remaining indebtedness to a balance for which adequate security is present. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(c) At least fifteen (15) days prior to the expiration of each policy maintained pursuant to this Paragraph 1.04, a renewal or replacement thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender reasonable evidence of payment of all such insurance policies and renewals or replacements. Each policy maintained pursuant to this Paragraph 1.04 shall provide that the same cannot be canceled or coverage reduced or changed without at least thirty (30) days prior written notice to Lender. Blanket coverage policies are acceptable to Lender provided they contain stipulated value endorsements as to replacement cost. Should co-insurance or average clauses be included in any of said policies, Borrower shall obtain a Stipulated Value endorsement in form and content satisfactory to Lender. The delivery of any insurance policies hereunder shall constitute an assignment of all unearned premiums as further security hereunder. In the event of the foreclosure of this Mortgage or any other transfer of title to the Mortgaged Property in extinguishment or partial extinguishment of the Indebtedness, all right, title and interest of Borrower in and to all insurance policies then in force shall pass to the purchaser or to Lender, as the case may be, and Lender is hereby irrevocably appointed by Borrower as attorney-in-fact for Borrower, coupled with an interest, to assign any such policy to said purchaser or to Lender, as the case may be, without accounting to Borrower for any unearned premiums thereon.

**1.5 Monthly Deposits.** At the option of Lender and further to secure the payment of the taxes and assessments referred to in Paragraph 1.03 and the insurance policies referred to in Paragraph 1.04, Borrower shall deposit with Lender, on the due date of each installment under the Note, such amounts as, in the estimation of Lender, shall be necessary to pay such charges as they become due, to be calculated upon the basis of the prior year's tax bills and the current year's insurance premiums; said deposits to be held by Lender, free of interest, and free of any liens or claims on the part of creditors of Borrower and as part of the security of Lender, and to be used by Lender to pay current taxes and assessments on the Mortgaged Property and insurance premiums as the same accrue and are payable. Payment from said sums for said purposes shall be made by Lender at its discretion and may be made even though such payments will benefit subsequent owners of the Mortgaged Property. Said deposits shall not be, nor be deemed to be, trust funds but may be commingled with the general funds of Lender. If said deposits are insufficient to pay taxes and assessments and insurance premiums in full, Lender, in its sole and absolute discretion, may refrain from advancing the additional funds necessary or may advance the additional funds necessary. If it elects to advance the additional funds, said advance shall bear interest at the maximum rate allowed by law until such time as Lender has been repaid in full for said advance. Upon any act of default as defined herein below, Lender may, in its sole and absolute discretion, apply any money in the fund resulting from said deposits to the payment of the indebtedness secured hereby in such manner as it may elect.

**1.6 Condemnation.** If all or any part of the Mortgaged Property shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof, either temporarily or permanently) so that the remaining property is not adequate security for the outstanding indebtedness in the sole and absolute opinion of Lender, the entire indebtedness secured hereby shall at the option of Lender become immediately due and payable. The Lender shall be entitled to all compensation, awards, and any other payments of relief therefor and is hereby authorized, at its option to commence, appear in and prosecute, in its own or the Borrower's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by the Borrower to the Lender, who after deducting therefrom all its reasonable expenses including attorneys' fees, may release any monies so received by it without affecting the lien of this Mortgage or may apply the same in such manner as the Lender shall determine, to the reduction of the sums secured hereby, and any balance of such monies then remaining shall be paid to the Borrower. The Borrower agrees to execute such further assignments of any compensations, awards, damages, claims, rights of action and proceeds as the Lender may require. Notwithstanding the provisions of this Paragraph 1.06, if a condemnation award or any portion thereof is for repair or restoration of the Mortgaged Property then such award or portion of award shall be held by Lender and shall be made available to reimburse Borrower for such repair upon the same terms and conditions applicable to the proceeds of insurance as set forth in Paragraph 1.04(b).

#### **1.7 Care of Property.**

(a) The Borrower shall preserve and maintain the Mortgaged Property at all times in good condition and repair. Borrower shall not remove or demolish any building presently on or hereafter existing on the Land without the prior written consent of the Lender. Borrower shall not permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or of any part thereof, and will not

take any action which will increase the risk of fire or other hazard to the Mortgaged Property or to any part thereof.

(b) Except as otherwise expressly provided herein, no buildings, fixtures, personal property, or other part of the Mortgaged Property shall be removed, demolished or substantially altered without the prior written consent of the Lender. The Borrower may sell or otherwise dispose of, free from the lien of this Mortgage, furniture, furnishings, equipment, tools, appliances, machinery, fixtures, or appurtenances, which may become worn out, undesirable, obsolete, disused or unnecessary for use in the operation of the Mortgaged Property, upon replacing the same with other furniture, equipment, tools, appliances, machinery, fixtures, or appurtenances not necessarily of the same character, but of at least equal value to the Borrower and costing not less than the original acquisition cost of the property sold or otherwise disposed of, which shall forthwith become, without further action, subject to the lien of this Mortgage.

(c) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, the Borrower will give immediate written notice of same to Lender.

(d) The Lender is hereby authorized to enter upon and to inspect the Mortgaged Property at any reasonable time during normal business hours during the term of this Mortgage.

(e) The Borrower will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property or any part thereof.

(f) If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, the Borrower will promptly restore the Mortgaged Property to the equivalent of its original condition regardless of whether or not there shall be any insurance proceeds therefore. If any part of the Mortgaged Property shall be physically damaged through condemnation, the Borrower will promptly restore, repair or alter the remaining property in a manner satisfactory to the Lender.

(g) In the event that Borrower intends to undertake construction activities of any kind on or about the Mortgaged Property, Borrower agrees (i) to obtain Lender's prior written approval of the plans and specifications therefore, which shall not be unreasonably withheld or delayed, (ii) to undertake all such activities in good and workmanlike manner, with minimum interference with and disruption to owners and residents of other portions of the project of which the Land forms a part, (iii) to promptly repair and restore any improvements at said project which are damaged or destroyed as a result of such activities, (iv) not to suffer or permit the filing of any lien or claim or lien on any portion of the Land as a result thereof, (v) to perform all such activities in strict compliance with all necessary government permits and requirements, and (vi) to indemnify and save and hold Lender harmless from and against any and all damages, claims, losses or expenses (including reasonable attorneys' fees) asserted against or incurred by Lender as a result of such activities.

**1.8 Further Assurances.** Borrower will make, execute and deliver to the Lender and, where appropriate, shall cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or re-filed at such time and in such offices and places as shall be deemed desirable by Lender, any and all such further mortgages, instruments of further assurance, certificates and other documents as may, in the opinion of the Lender, be necessary or desirable in order to effectuate, complete, perfect, or to continue and preserve:

(a) The obligations of the Borrower under this Mortgage and Note secured hereby, and

(b) The lien of this Mortgage as a valid lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by the Borrower.

Upon any failure by the Borrower to do so, the Lender may make, execute, record, file, re-record and/or re-file any and all such mortgages, instruments, certificates and documents for and in the name of the Borrower, and the Borrower hereby irrevocably appoints the Lender the agent and attorney-in-fact of the Borrower, coupled with an interest, to do so.

**1.9 After Acquired Property.** The lien of this Mortgage will automatically attach, without further act, to all after acquired property attached to or used in the operation of the Mortgaged Property or any part thereof, including but not limited to the fee title to the Land.

**1.10 Leases Affecting Mortgaged Property.** The Borrower will comply with and observe its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. Borrower will furnish Lender with executed copies of all leases hereafter created on the Mortgaged Property and all amendments thereto, and Lender

specifically reserves the right to approve in advance all leases and amendments thereto which are hereafter entered into by Borrower. The Lender also specifically reserves the right at any time following a default by Borrower under the Loan, to approve in advance all prospective lessees as to financial capabilities, which approval will not unreasonably be withheld. Unless otherwise herein specifically provided, all leases shall be inferior and subordinate in all respects to the lien of this Mortgage, and the terms of each lease shall so provide. Borrower will not, without the express written consent of the Lender, modify, surrender, or terminate, either orally or in writing, any lease hereafter created upon the Mortgaged Property, nor will the Borrower permit an assignment of sub-lease without the express written consent of the Lender. Except for the collection of a security deposit and last month's rent upon execution of a lease, Borrower will not otherwise accept payment of rent more than one (1) month in advance without the express written consent of the Lender. If requested by the Lender, the Borrower will specifically assign to the Lender as additional security any and all such leases hereafter created, including, without limitation, all rents, royalties, issues and profits of the Mortgaged Property from time to time accruing, the parties hereto acknowledging that this Mortgage constitutes a general assignment of any and all such future leases. The Borrower shall provide a quarterly rent roll to Lender, setting forth therein, the name and address of each and every tenant.

**1.11 Expenses.** Borrower shall pay or reimburse Lender for all reasonable costs, charges and expenses, including reasonable attorney's fees, including appellate proceedings, and disbursements, and costs of abstracts of title incurred or paid by Lender in any action, proceeding or dispute in which Lender is made a party or appears as a party plaintiff or party defendant because of the failure or alleged failure of the Borrower promptly and fully to perform and comply with all conditions and covenants of this Mortgage and the Note secured hereby, including but not limited to, the foreclosure of this Mortgage, condemnation of all or part of the Mortgaged Property, or any action to protect the security thereof. All costs, charges and expenses so incurred by Lender shall become due and payable whether or not there be notice, demand, attempt to collect or suit pending. The amounts so paid or incurred by Lender, together with interest thereon at the Default Rate as hereinafter defined from the date incurred until paid by Borrower, shall be secured by the Lien of this Mortgage.

**1.12 Lender's Performance of Defaults.** If the Borrower shall Default in the payment of any tax assessment, encumbrance or other imposition, in its obligation to furnish insurance hereunder or in the performance or observance of any other covenant, condition or term in this Mortgage, the Lender, may at its option, without waiving or affecting its option to foreclose or any other rights hereunder, perform or observe the same, and all payments made or costs or expenses incurred by the Lender in connection therewith shall be secured hereby and shall be immediately repaid by the Borrower to the Lender, with interest thereon at the Default Rate as hereinafter defined. Nothing contained herein shall be construed as requiring the Lender to advance or expend monies for any purposes mentioned in this Paragraph. The Lender is hereby empowered to enter and to authorize others to enter upon the Mortgage Property or any part thereof for the purpose of performing or observing any such Defaulted covenant, condition or terms, without thereby becoming liable to the Borrower or any person in possession holding under the Borrower.

**1.13 Books and Records.** The Borrower shall keep and maintain at all times full, true and accurate books of accounts and records, in accordance with generally accepted accounting principles, adequate to reflect correctly the results of the operation of the Mortgaged Property.

**1.14 Estoppel Affidavits.** The Borrower and Lender, within ten (10) days after written request from the other, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of, an interest on, the Note and whether or not any offsets or defenses exist against such principal and interest. Borrower shall pay to Lender a reasonable fee for any statement regarding the obligations secured hereby requested to be furnished by Lender in an amount determined by Lender.

## **ARTICLE TWO DEFAULTS**

**2.1 Event of Default.** The term "Default", wherever used in the Mortgage, shall mean any one or more of the following events:

- (a) Failure by Borrower to pay any installments of principal or interest due under the Note, or any deposits for taxes and assessments or insurance premiums due hereunder, or any other sum to be paid by Borrower hereunder or under any other instrument securing the Note or any other instrument collateral to the Note or executed in connection with this loan transaction.
- (b) Failure by Borrower to duly keep, perform and observe any other covenant, condition or agreement in the Note, this Mortgage, any other instrument securing the Note or any other instrument collateral to the Note or executed in connection with this loan transaction.



(c) If Borrower or any endorser or guarantor of the Note shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, wage earner's plan, assignment for the benefit of creditors, receivership, dissolution or similar relief under any present or future Federal Bankruptcy Act or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Borrower or all or any part of the properties of Borrower or of any guarantor or endorser of the Note; or if within sixty (60) days after commencement of any proceeding against Borrower or any guarantor or endorser of the Note, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, debtor relief or similar relief under any present or future Federal Bankruptcy Act or any other present or future federal, state or other statute or law, such proceeding shall not have been dismissed, or stayed on appeal; or if, within sixty (60) days after the appointment, without the consent or acquiescence of Borrower or of any endorser or guarantor of the Note, of any trustee, receiver, or liquidator of Borrower or any endorser or guarantor of the Note, or of all or any portion of the Mortgaged Property, such appointment shall not have been vacated or stayed, on appeal or otherwise; or if within sixty (60) days after the expiration of any such stay such appointment shall not have been vacated.

(d) The entry by any court of last resort of a decision that an undertaking by the Borrower as herein provided to pay taxes, assessments, levies, liabilities, obligations and encumbrances is legally inoperative or cannot be enforced, or in the event of the passage of any law changing in any way or respect the laws now in force for the taxation of mortgages or debts secured thereby (which are in the nature of documentary stamps or intangible taxes) for any purpose or the manner of collection of any such taxes, so as to affect adversely this Mortgage or the debt secured hereby.

(e) If a default shall have occurred with respect to any other mortgage encumbering the Mortgaged Property, or if foreclosure or other proceedings to enforce a lien should be instituted with respect to any lien of any kind upon the Mortgaged Property.

(f) Any breach of any warranty or material untruth of any representation of Borrower contained in the Note, this Mortgage or any other instrument securing the Note or any other instrument executed in connection with this loan.

**2.2 Acceleration of Maturity.** If a Default shall have occurred and be continuing, the Lender may, WITHOUT NOTICE TO BORROWER, declare the entire principal amount of the Note then unpaid and the interest accrued thereon to be due and payable immediately, and upon such declaration such principal and interest shall forthwith become and be due and payable, together with any prepayment fees that may be due and payable in full as fully and completely as if the said aggregate sum of said indebtedness was originally stipulated to be paid in full on such date, anything in the Note or this Mortgage to the contrary notwithstanding.

### **2.3 Lender's Right to Enter and Take Possession, Operate and Apply Income.**

(a) If a Default shall have occurred and be continuing the Borrower, upon demand of the Lender, shall forthwith surrender to the Lender the actual possession of the Mortgaged Property, and to the extent permitted by law the Lender itself, or such officers or agents as it may appoint, may enter and take possession of all the Mortgaged Property, and may exclude the Borrower and its agents and employees wholly therefrom, and may have joint access with the Borrower to the books, papers and accounts of the Borrower.

(b) If the Borrower shall, for any reason, fail to surrender or deliver any such Mortgaged Property or any part thereof after such demand by the Lender, the Lender may obtain a judgment or decree conferring on the Lender the right to immediate possession or requiring the Borrower to deliver immediate possession of all or part of such Mortgaged Property to the Lender, to the entry of which judgment or decree the Borrower hereby specifically consents.

(c) The Borrower will pay to the Lender, upon demand, all reasonable expenses of obtaining such judgment or decree and reasonable compensation to the Lender, its attorneys and agents, and all such expenses and compensation shall, until paid, be secured by the lien of this Mortgage.

(d) Upon every such entering upon or taking of possession, the Lender may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time:

- (i) make all necessary (as determined by Lender in its sole and absolute discretion) maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon, and purchase or otherwise acquire additional fixtures, personalty and other property;
- (ii) insure or keep the Mortgaged Property insured and exercise all the rights and powers of the Borrower in its name or otherwise, with respect to the same;
- (iii) manage and operate the Mortgaged Property and exercise all the rights and powers of the Borrower in its name or otherwise, with respect to the same;
- (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted the Lender,

all as the lender from time may determine to be to its best advantage, and the Lender may collect and receive all the income, revenues, rents, issues and profits of the same, including those past due as well as those accruing thereafter, and after deducting:

- (aa) all expenses of taking, holding, managing, and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes);
- (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions;
- (cc) the cost of such insurance;
- (dd) such taxes, assessments and other charges prior to the lien of this Mortgage as the Lender may determine to pay;
- (ee) other proper charges upon the Mortgaged Property or any part thereof; and
- (ff) the reasonable compensation expenses, and disbursements of the attorneys and agents of the Lender,

shall apply the remainder of the monies so received by the Lender, first to the payment of accrued interest; second to the payment of any required tax deposit, insurance deposit or expenses required by Lender; and third toward the outstanding principal balance on the Note.

**2.4 Lender's Power of Enforcement.** If a Default shall have occurred and be continuing the Lender may, either with or without entry or taking possession as herein above provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy (a) to enforce payment of the Note or the performance of any term hereof or any other right, (b) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, under the judgment or decree of a court or courts of competent jurisdiction, and (c) to pursue any other remedy available to it, all as the Lender shall deem most effectual for such purposes. The Lender shall take such action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as the Lender may determine.

**2.5 Leases. The Lender, at the Lender's option,** is authorized to foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties defendant to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted by the Borrower as, a defense to any actions or proceedings instituted by the Lender to collect the sums secured hereby.

**2.6 Principal and Interest Become due on Foreclosure.** Upon commencement of suit or foreclosure of this Mortgage, the unpaid principal of the Note, if not previously declared due, and the interest accrued thereon, shall at once become and be immediately due and payable.

**2.7 Purchase by Lender.** Upon any such foreclosure sale, pursuant to judicial proceedings, the Lender may bid for and purchase the Mortgaged Property and, upon compliance with the terms of the sale, may hold, retain and possess and dispose of such property in its own absolute right, without further accountability.

**2.8 Application of Indebtedness Toward Purchase Price.** Upon any such foreclosure sale, pursuant to judicial proceedings, the Lender may, if permitted by law, after allowing for the proportion of the total purchase price required to be paid in cash for the costs and expenses of the sale, compensation and other charges, in paying the purchase price, apply to the purchase price any portion of or all sums due to the Lender under the Note and this

Mortgage, in lieu of cash, to the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon.

**2.9 Waiver of Appraisalment, Valuation, Stay, Extension and Redemption Laws.** The Borrower agrees to the full extent permitted by law that in case of a Default on its part hereunder, neither the Borrower nor anyone claiming through or under the Borrower shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the property hereby conveyed, to the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat; and the Borrower, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws and any and all right to have the assets comprised in the security intended to be created hereby marshaled upon any foreclosure of the lien hereof and agrees that the Lender or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property as an entirety.

**2.10 Receiver.** If a Default shall occur and be continuing, then upon the filing of a bill in equity or other commencement of judicial proceedings to enforce the rights of the Lender, the Lender to the extent permitted by law and without regard to the value or occupancy of the security shall be entitled as a matter of right to the appointment of a receiver to enter upon and take possession of the Mortgaged Property. The receiver shall collect all rents, revenues, issues, income, products and profits thereof pending such proceedings and apply the same as the court may direct. The receiver shall have all rights and powers permitted under the laws of Florida and such other powers as the court making such appointment shall confer. The reasonable expenses, including receiver's fees, counsel fees, costs and agent's compensation, incurred pursuant to the powers herein contained shall be secured by this Mortgage. The right to enter, take possession of, manage and operate the Mortgaged Property, to collect the rents, issues and profits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Lender shall be liable to account only for such rents, issues and profits as are actually received by Lender, whether received pursuant to this Paragraph 2.10 or Paragraph 2.03 above. Notwithstanding the appointment of any receiver, trustee or other custodian, the Lender shall be entitled as pledgee to the possession and control of any cash or other instruments at the time held by, or payable or deliverable under the terms of this Mortgage to the Lender.

**2.11 Suits to Protect the Mortgaged Property.** The Lender shall have power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or by any violation of the Mortgage, (b) to preserve or protect its interest in the Mortgaged Property and in the income, revenues, rents and profits arising therefrom, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of the Lender.

**2.12 Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting the Borrower, its creditors or its property, the Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Lender allowed in such proceedings for the entire amount due and payable by the Borrower under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by the Borrower hereunder after such date.

**2.13 Acceleration; Application of Monies by Lender.**

(a) If Default shall be made in the payment of any amount due under the Mortgage or the Note secured hereby, then without demand, the Borrower will pay to the Lender the entire amount due and payable under the Note. If borrower shall fail to pay the same forthwith, the Lender shall be entitled to sue for and to recover judgment against the Mortgaged Property for the whole amount so due and unpaid together with costs, which shall include the reasonable compensation, expenses and disbursements of the Lender's agents and attorneys either before, after or during the pendency of any proceedings for the enforcement of this Mortgage including appellate proceedings. The right of the Lender to recover such judgment shall not be precluded by any taking, possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

(b) Any monies thus collected by the Lender or received by the Lender under this Paragraph 2.13 shall be applied as follows:

First to the payment of the reasonable attorneys fees and expenses incurred by Lender, its agents and attorneys, including but not limited to taxes paid, insurance premiums paid, receivers fees, etc.

Second, toward payment of the amounts due and unpaid upon the Note.

**2.14 Delay or Omission No waiver.** No delay or omission of the Lender or of any holder of the Note to exercise any right, power or remedy accruing upon any Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Default, or acquiescence therein; and every right, power and remedy given by this Mortgage to the Lender may be exercised from time to time and as often as may be deemed expedient by the Lender.

**2.15 No Waiver of One Default to Affect Another.** No waiver of any Default hereunder shall extend to or shall affect any subsequent or any other then existing Default or shall impair any rights, powers or remedies consequent thereon. By way of example, and not by way of limitation, if the Lender (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted herein or in the Note; (d) releases any part of the Mortgaged Property from the Note or Mortgage; (e) consents to the filing of any map, plat or replat thereof; (f) consents to the granting of any easement thereof, or (g) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under the Note, Mortgage or otherwise of the Borrower or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude the Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any other Default then made or of any subsequent Default nor, except as otherwise expressly provided in an instrument or instruments executed by the Lender, shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, the Lender, without notice to any person or corporation, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Mortgaged Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

**2.16 Discontinuance of Proceedings - Position of Parties Restored.** In case the Lender shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Lender, then and in every such case, the Borrower and the Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Lender shall continue as if no such proceeding has been taken.

**2.17 Remedies Cumulative.** No right, power or remedy conferred upon or reserved to the Lender by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

### **ARTICLE THREE MISCELLANEOUS PROVISIONS**

**3.1 Successors, Assigns Included in Parties.** Whenever in this Mortgage one of the parties hereto is named or referred to, the successors and assigns of such party shall be included and all covenants and agreements contained in this Mortgage by or on behalf of the Borrower or by or on behalf of Lender, shall bind and inure to the benefit of its respective successors and assigns subject to the provisions of Paragraph 3.07, whether so expressed or not. Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the other.

#### **3.2 Notice.**

(a) Borrower. Any notice, demand or other instrument authorized by this Mortgage to be served on or given to the borrower may be served on or given to the Borrower, at:

**THE BORROWER'S ADDRESS AS INDICATED ON PAGE ONE HEREOF**

or at such other address as may have been furnished in writing to the Lender by the Borrower.

(b) Lender. Any notice, demand or other instrument to be served on or given to the Lender may be served on or given to the Lender at its offices located at:

**THE LENDER'S ADDRESS AS INDICATED ON PAGE ONE HEREOF**

or at such other address as may have been furnished in writing to the Borrower by the Lender.

(c) Delivery of Notice. All notices shall be in writing and shall be delivered by certified mail, return receipt requested, or be delivered via overnight mail service. All notices shall be deemed made when delivery is first attempted at the address or addresses required hereunder.

(d) Nothing contained in this paragraph shall be construed as obligating either party to provide any notice to the other.

**3.3 Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience of reference only, and are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

**3.4 Invalid Provisions to Affect No Others.** In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage or in the Note or in any instruments collateral to the Note or executed in connection with this loan transaction shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein and in the Note shall be in no way affected, prejudiced or disturbed thereby.

**3.5 Modifications.** It is understood and agreed that the Lender may at any time, without notice to any person, grant to the Borrower any modification of any kind or nature whatsoever, or allow any change or changes, substitution or substitutions of any of the property described in this Mortgage or any other collateral which may be held by the Lender without in any manner affecting the liability of the Borrower, any endorsers or guarantors of the indebtedness hereby secured or any other person for the payment of said indebtedness, together with any interest and any other sums which may be due and payable to the Lender, and also without in any manner affecting or impairing the lien or this Mortgage upon the remainder of the Mortgaged Property and other collateral which is not changed or substituted; and it is also understood and agreed that the Lender may at any time, without notice to any person, release any portion of the property described in this Mortgage or any other collateral, or any portion of any other collateral which may be held as security for the payment of the indebtedness hereby secured, either with or without any consideration of such release or releases, without in any manner affecting the liability of the Borrower, all endorsers or guarantors, if any, and all other person who are or shall be liable for the payment of said indebtedness, and without affecting disturbing or impairing in any manner whatsoever the validity and priority of the lien of this Mortgage for the full amount of the indebtedness remaining unpaid, together with all interest and advances which shall become payable, upon the entire remainder of the Mortgaged Property which is unreleased, and without in any manner affecting or impairing to any extent whatsoever any and all other collateral security which may be held by the Lender. It is distinctly understood and agreed by the Borrower and the Lender that any release or releases may be made by the Lender without the consent or approval of any other person or persons whomsoever.

**3.6 Uniform Commercial Code.** The parties agree that this Mortgage is a security agreement under the Uniform Commercial Code for the purpose of creating a lien on the personal property and fixtures described herein.

**3.7 No Transfer or Further Encumbrance.** Except as hereinafter expressly provided, in the event that (i) Borrower, directly or indirectly, voluntarily or involuntarily, sells, enters into a contract of sale, assigns, transfers, disposes of, alienates or further encumbers, all of or any portion of or any interest in the Mortgaged Property, or suffers to exist any other lien against all or any portion of or any interest in the Mortgaged Property, or leases the Mortgaged Property or any part thereof pursuant to any lease which contains an option to purchase, or changes the character or use of the Mortgaged Property, or drills or extracts, or enters into a lease for the drilling for or extraction of oil, gas or other hydrocarbon substances or any mineral of any kind on the Mortgaged Property, or (ii) if Borrower is a business entity, any stock or general partner's interest in the Borrower is, directly or indirectly, voluntarily or involuntarily, sold, assigned, transferred, disposed of, pledged, diluted or encumbered, or (iii) Borrower or any of its general partners, members or stockholders agrees to do any of the foregoing acts, then or at any time thereafter, Lender, at its option, may declare the entire loan immediately due and payable.

The option of Lender under this Paragraph 3.07 to declare a Default for any of the above-mentioned acts may be exercised at any time after the occurrence of any such event, and the acceptance of one or more installments from any person thereafter shall not constitute a waiver of Lender's option.

**3.8 Future Advances.** Pursuant to Florida Statutes Sec. 697.04, this Mortgage is given to secure not only the existing indebtedness of Borrower to Lender evidenced by the Note secured hereby, but also such future advances as are made within twenty (20) years from date hereof, plus interest thereon, and other disbursements made pursuant hereto or for the protection of the security for the indebtedness secured hereby, with interest on such disbursements, which advances shall be secured hereby to the same extent as if such future advance were made this date. The total amount of indebtedness secured hereby may increase or decrease from time to time. The provisions of this paragraph shall not be construed to imply any obligation on Lender to make any future advances, it being the intention of the parties that any future advances shall be solely at the discretion and option of the Lender. Any reference to "Note" in this Mortgage shall be construed to reference any future advances made pursuant to this paragraph. In no event shall the total of the original indebtedness together with advances exceed 500% of the original loan amount.

**3.9 Leasing Commission.** Borrower covenants that every agreement to pay leasing commissions with respect to the leasing of space in the Mortgaged Property, or any part thereof, are and shall be subject, subordinate and inferior to the right of Lender, so that in the event Lender acquires title to the Mortgaged Property either at a foreclosure sale or by other means, Lender will be exonerated and discharged from all liabilities for the payment of any such commissions or compensations.

**3.10 Time is of the Essence.** It is specifically agreed that time is of the essence of this Mortgage and that no waiver of any obligation hereunder or of the obligation secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the instrument secured hereby.

**3.11 Attorneys' Fees and Expenses.** Wherever provision is made herein for payment for reasonable attorney's or counsel's fees or expenses incurred by the Lender, said provision shall include, but not be limited to, reasonable attorney's or counsel's fees or expenses incurred in any and all judicial, bankruptcy, reorganization, administrative, or other proceedings, including appellate proceedings, whether such proceeding arises before or after entry of a final judgment. In any court action, reasonable attorney fees shall be determined by the Court based on affidavits submitted by the parties and no expert testimony shall be permitted unless specifically ordered by the Court. As an alternative, at the option of the party seeking the award of a reasonable attorney fee, provided that the attorney fee sought from the Court does not exceed ten percent (10%) of the principal balance on the note secured hereby, it shall not be necessary for the Court to determine what would constitute a reasonable and just attorney fee and the parties hereby agree that such a fee is reasonable and just in accordance with section 687.06, Florida Statutes.

## **ARTICLE FOUR ADDITIONAL PROVISIONS**

### **4.1 Provisions Relating to Hazardous Materials.**

(a) After due inquiry and investigation, Borrower represents and warrants that (i) the Mortgaged Property is not in violation of any Hazardous Materials Law as to conditions on, under or about the Mortgaged Property, including, but not limited to, soil and groundwater condition; (ii) neither Borrower nor, to the best of Borrower's knowledge, any other person has used, generated, manufactured, stored or disposed of, on, under or about the Mortgaged Property or transported to or from the Mortgaged Property any Hazardous Materials; (iii) there are no underground storage tanks under the Mortgaged Property; and (iv) the Mortgaged Property and its current use comply with all Hazardous Materials Law.

(b) Borrower covenants and agrees that Borrower shall not cause or permit the presence, use, generation, manufacture, release, discharge, storage or disposal of any Hazardous Materials on, under in or about the Mortgaged Property, or the transportation of any Hazardous Materials to or from the Mortgaged Property. Borrower shall immediately notify Lender in writing of: (i) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened by any third party against Borrower or the Mortgaged Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials; and (iii) Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Property that could result in the contamination of the Mortgaged Property or groundwater under the Mortgaged Property by Hazardous Materials or cause all or any portion of the Mortgaged Property to be subject to any restrictions on the ownership, occupancy, transferability or use of the Mortgaged Property under Hazardous Materials Laws.

(c) Borrower shall indemnify, defend and hold Lender, its employees, agents, officers and directors, harmless from and against any claim, action, suite, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage or expense (including, without limitation, attorney's and consultant fees), directly or indirectly resulting from arising out of, or based upon (i) the presence, release, use manufacture, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or

about, or the transportation of Hazardous Materials to or from the Mortgaged Property. This indemnity shall include, without limitation, any damage, liability, fine, penalty, punitive damage, cost or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resources or the environment, nuisance, pollution, contamination, leak, spill, release or other adverse effect on the environment, and the cost of any required or necessary repair, cleanup, treatment or detoxification of the Mortgaged Property, and the preparation and implementation of any closure, disposal, remedial or other required actions in connection with the Mortgaged Property.

(d) At any time during the terms of this Mortgage, Lender shall have the right, on twenty-four (24) hours prior written notice to Borrower, to enter the Mortgaged Property and to conduct such tests and investigations as Lender reasonably deems necessary to determine whether any Hazardous Materials are present in, under, on or about the Mortgaged Property. Such tests and investigations shall include, without limitation, underground borings and groundwater analyses on the Mortgaged Property. Lender shall indemnify, defend and hold Borrower harmless from any and all loss, cost, damage, injury or expense arising out of or relating to claims resulting the exercise of Lender's right of entry under this Paragraph.

(e) "Hazardous Materials Law", for purposes of this Paragraph 4.01 means any federal, state, or local law, ordinance or regulation or any court judgment applicable to Borrower or to the Mortgaged Property relating to industrial hygiene or to environmental conditions including, but not limited to, those relating to the release, emission or discharge of Hazardous Materials, those in connection with the construction, fuel supply, power generation and transmission, waste disposal or any other operations or processes relating to the Mortgage Property. "Hazardous Materials Law" shall include, but not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, the Solid Waste Disposal Act, the Clean Water Act, the Clean Air Act, Chapter 376 Florida Statutes.

(f) "Hazardous Materials", for purposes of this Paragraph 4.01, includes flammable explosives, radioactive materials, polychlorinated biphenyls, asbestos in any form which is or could become friable, hazardous waste, toxic substances or other related materials whether in the form of a chemical, element, compound, solution, mixture or otherwise, including, but not limited to, those materials defined as "hazardous substances", "hazardous materials", "toxic substances", "air pollutants", "toxic pollutants", "hazard wastes", "extremely hazardous waste" or "restricted hazardous waste" by Hazardous Material Law.

**4.3 Other provisions.**

(a) Waiver of right to Jury Trial. Each borrower hereby knowingly, voluntarily and intentionally waives the right either may have to a trial by jury in respect of any litigation based hereon or arising out of, under or in connection with the Mortgage, the security documents executed in connection therewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party. This provision is a material inducement to the making of the loan to Borrower by Lender and to the advance or other extension of credit to Borrower. Borrower represents and warrants that the waivers contained in this paragraph have been freely and voluntarily made after reviewing same with counsel of Borrower's choice. This provision shall be binding upon any party who, at anytime hereafter, assumes the obligations contained herein.

(b)

(c)

IN WITNESS WHEREOF, the undersigned has (have) executed this instrument the day and year first above written.

**THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$126,145.83, TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.**

Signed, sealed and delivered in the presence of:

MY COMPANY LLC

By: \_\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
KATHY JONES, MEMBER -Borrower -Borrower  
123 JOHNSON STREET,  
HOLLYWOOD, FLORIDA 33020

\_\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
-Borrower -Borrower

\_\_\_\_\_ (Seal) \_\_\_\_\_ (Seal)  
-Borrower -Borrower

\_\_\_\_\_  
Witness Witness

\_\_\_\_\_ [Space Below This Line For Acknowledgment] \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF LOS ANGELES

BEFORE ME, the undersigned authority, personally appeared KATHY JONES  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_,

who is/are personally known to me, or who produced the following identification: \_\_\_\_\_

\_\_\_\_\_ and who executed the foregoing document, and who acknowledged before me that the same was executed under oath for the uses and purposes in said instrument set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_