

2005 003835

**MORTGAGE  
(INDIANA)**

**THIS AGREEMENT**, made January 14, 2005, between LAKE AND PORTER COUNTY REDEVELOPMENT LLC, 8202 Oklahoma Court, Merrillville, Indiana 46401, hereinafter referred to as "Mortgagors" and CLAUDIA FUNDING CORP., 44 Cornflower Lane, East Northport, New York 11431 herein referred to as "Mortgagee", witnesseth:

THAT WHEREAS the Mortgagors are justly indebted to the Mortgagee upon the installment note of even date herewith in the principal sum of SIXTY THOUSAND SEVEN HUNDRED FIFTY (\$60,750.00) DOLLARS, payable to the order of and delivered to the Mortgagee, in and be which note the Mortgagors promise to pay the said principal sum and interest at the rate and in installments as provided in said note, with a final payment of the balance due on the 14th day of January, 2006, and all of said principal and interest are made payable at such place as the holders of the not may, from time to time, in writing appoint, and in absence of such appointment, then at the office of the Mortgagee at Claudia Funding Corp. at 44 Cornflower Lane, East Northport, New York 11731.

NOW, THEREFORE, the Mortgagors to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this mortgage, and the performance of the covenants and agreements herein contained, by the Mortgagors to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, do by these presents CONVEY AND WARRANT unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate and all of their estate, right, title and interest therein, situate, lying and being in the City of Lake Station, County of Lake, in State of Indiana, to wit:

which, with the property herein after described, is referred to herein as the "premise",

*See Schedule Annexed*

Address(es) of Real Estate: 2502 Union Street, Lake Station

Taxing Unit: 14 Key No.: 19-7-5

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles

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hereafter placed in the premises by Mortgagors or their successors or assigns shall be considered as constituting part of the real estate.

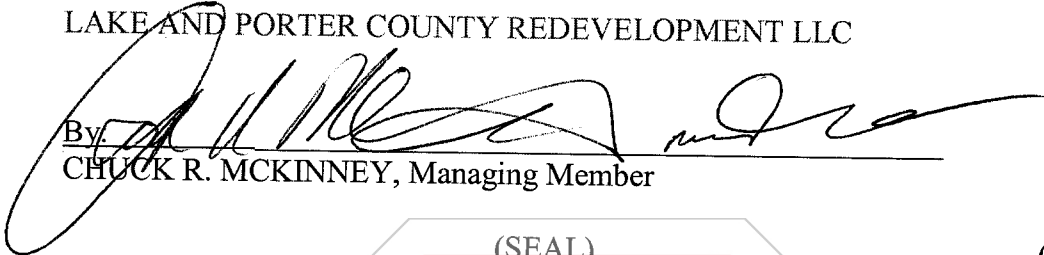
TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee's successors and assigns, forever, for purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Law of the State of Indiana, which said rights and benefits the Mortgagors do hereby expressly release and waive.

The name of a record owner is: LAKE AND PORTER COUNTY REDEVELOPMENT, LLC

This mortgage consists of three pages. The covenants, conditions, and provisions appearing on page 3 are incorporated herein by reference and are a part hereof and shall be binding on Mortgagors, their heirs, successors and assigns.

Witnesseth the hand and seal of Mortgagors the day and year first above written.

LAKE AND PORTER COUNTY REDEVELOPMENT LLC

By:   
CHUCK R. MCKINNEY, Managing Member

(SEAL)

(SEAL)

State of Indiana, County of Lake ss:

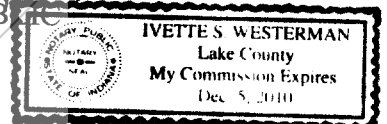
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that CHUCK R. MCKINNEY personally known to me to be the same person whose name subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, seal and delivered the said instrument as Managing Member free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this 14th day of January, 2005

Commission expires on 12/5, 2000

NOTARY PUBLIC

This instrument was prepared by: Haberman & Goldenberg LLP



Mail this instrument to: Claudia Funding Corp. 44 Cornflower Lane, East Northport, New York 11731

OR RECORDER'S OFFICE BOX NO. \_\_\_\_\_

## **RIDER TO MORTGAGE**

**BY AND BETWEEN LAKE AND PORTER COUNTY REDEVELOPMENT LLC, As Mortgagor and CLAUDIA FUNDING CORP. As Mortgagee**

Covering Premises: 2502 Union Street  
Lake Station, Indiana

Dated: January 14, 2005

The printed part of this Mortgage is hereby modified and supplemented. Wherever there is any conflict between this Rider and the printed part of this Mortgage, the provisions of this Rider are paramount and this Mortgage shall be construed accordingly.

1. This Mortgage has been duly authorized by the Board of Operators of Mortgagor at a meeting held, and the Certificate of Formation does not require any vote or consent of the members. Mortgagor validly exists and is in good standing under the laws of the State of Indiana.
2. Mortgagor agrees to bear all expenses (including reasonable attorneys' fees for legal services of every kind) of or incidental to the enforcement of any provisions hereof, or enforcement, compromise, or settlement of any of the collateral pledged hereunder, and for the curing thereof, or defending or asserting the rights and claims of Mortgagee in respect thereof, by litigation or otherwise, and will pay to Mortgagee any such expenses incurred and such expenses shall be deemed an indebtedness secured by this Mortgage and shall be collectible in like manner as the principal indebtedness secured by this Mortgage. All rights and remedies of Mortgagee shall be cumulative and may be exercised singly or concurrently. Notwithstanding anything herein contained to the contrary, Mortgagor hereby waives trial by jury.
3. In the event any payment herein provided for shall become overdue for a period in excess of ten (10) days, a late charge of five-hundredths of one dollar (\$0.05) for each dollar so overdue shall become immediately due to Mortgagee as liquidated damages for failure to make prompt payment, and the same shall be secured by this Mortgage. Said late charges shall be computed from the due date (after applicable grace periods, if any) to the date of payment and shall be payable with the next installment of principal and/or interest. Payment and/or acceptance of any late charges shall not constitute a waiver of any default.

4. Mortgagor hereby appoints Mortgagee as its attorney-in-fact in connection with any of the personal property or fixtures covered by this Mortgage to execute and file on its behalf any financing statements, or other statements in connection therewith with the appropriate public office. This power, being coupled with an interest, shall be irrevocable so long as this Mortgage remains unsatisfied.

5. In the event of a condemnation, or a taking in lieu thereof, by purchase or otherwise, of all or a material part of the premises by any governmental authority or agency having jurisdiction, then the entire unpaid indebtedness including any additional monies advanced hereunder shall, at the option of Mortgagee, immediately become due and payable. The condemnation, or a taking in lieu thereof, by purchase or otherwise, of the whole or any part of the premises, shall not reduce the interest provided to be paid on the indebtedness secured hereby, notwithstanding any statutory provisions to the contrary.

6. Wherever in this Mortgage or as a matter of law it is provided that Mortgagee's consent or approval shall not be unreasonably withheld or the actions of Mortgagee shall be reasonable, the remedy of Mortgagor, in the event Mortgagor shall claim or establish that Mortgagee has unreasonably withheld such consent or approval or has acted unreasonably, shall be limited to injunction, declaratory judgment or arbitration, and in no such event shall Mortgagee be liable for a money judgment.

7. It is hereby mutually agreed that the time of the repayment, accelerated or otherwise, of this Mortgage, when due, as hereinbefore stated, is of unique and specific importance and financial necessity to Mortgagee and is hereby made of the essence. Should all sums due or payable under the Mortgage, or under any written extension, postponement of the due date or renewal thereof, not be promptly paid in full on or before the due date, stated or accelerated as a result of default, Mortgagor shall pay and hereby agrees to pay to Mortgagee, interest at the maximum rate which Mortgagor is permitted by law to contract or agree to pay on the unpaid balance computed from said date of maturity to the date of actual repayment. Said interest shall become due and payable at the same time that interest payments are due under this Mortgage and shall be secured by the collateral hereunder. It is hereby understood that this provision does not constitute a consent or agreement on the part of Mortgagee to extend or postpone the time of such payment beyond the present date of maturity.

8. Upon any default of Mortgagor in complying with or performing any warranty or covenant herein, Mortgagee may, at Mortgagee's option, comply with or perform the same, and the cost thereof together with interest thereon at the maximum rate which Mortgagor is permitted by law to contract or agree to pay from the date of



such default shall be paid by Mortgagor to Mortgagee on demand and shall be secured by this Mortgage.

9. At no time shall Mortgagor be obligated or required to pay interest on the principal balance of the Note secured by this Mortgage at a rate which could subject Mortgagee to either civil or criminal liability as a result of being in excess of the maximum rate which Mortgagor is permitted by law to contract or agree to pay. If by the terms of this Mortgage or the Note which it secures Mortgagor is at any time required or obligated to pay interest at a rate in excess of such maximum rate, the rate of interest shall be deemed to be immediately reduced to such maximum rate and interest payable shall be computed at such maximum rate and the portion of all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal.

10. Notwithstanding anything to the contrary herein contained, the grace period for the payment of any installment of interest is ten (10) days.

11. The entire indebtedness together with accrued interest shall become immediately due and payable at the option of Mortgagee upon any voluntary or involuntary sale, transfer, assignment or conveyance, or encumbrance of the property or any interest therein, or upon any sale, transfer, or assignment of any beneficial interest in Mortgagor without the prior written consent of Mortgagee.

12. Mortgagee, in any action to foreclose this Mortgage or upon the actual or threatened waste to any part of the mortgaged premises, or upon the occurrence of any default hereunder, shall be at liberty, without notice, to apply for the appointment of a receiver and shall be entitled to the appointment of such receiver as a matter of right, without regard to the value of the mortgaged premises as security for the indebtedness secured hereby, or the solvency or insolvency of any person then liable for the payment of the indebtedness.

13. Any failure by Mortgagee to insist upon the strict performance by Mortgagor of any of the terms and provisions hereof shall not be deemed to be a waiver of any of the terms and provisions hereof, and Mortgagee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Mortgagor of any and all of the terms and provisions of the Mortgage to be performed by Mortgagor.

14. The validity and enforceability of this Mortgage and all transactions and questions arising hereunder, shall be construed and interpreted according to the laws of the State of Indiana and shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of

such prohibition or invalidity, without invalidating the remaining provisions of this Mortgage.

15. The whole of said principal sum and the interest thereon shall become due at the option of the mortgagee in the following additional events: (j) non-performance by the mortgagor of, or failure to comply with, any agreement, covenant, or condition contained in this mortgage or any other instrument executed with respect to the premises, or (k) if any representation contained herein or in any other instrument executed in connection herewith is or shall become untrue, or (l) if the mortgagor fails or suspends business, makes an assignment for the benefit of creditors, applies for an extension from or composition with creditors, or if a trustee, receiver, or liquidator, be appointed for the mortgagor for any of its property, or under the provisions of any State insolvency law a petition be filed by or against the mortgagor, except that if such petition shall be filed against the mortgagor, the mortgagor shall have thirty (30) days in which to cause said petition to be dismissed; (m) if any action or proceeding is commenced by any governmental authority with respect to curing violations or maintenance of the premises; (n) if any lease is entered into with respect to the mortgaged premises in excess of a period of one (1) year except as required by law.

16. Mortgagee, its agents, or representatives shall have the right at all reasonable times to enter and inspect the mortgaged premises.

17. Mortgagor covenants, represents and warrants, to the best of its knowledge and belief, that the mortgaged premises and any buildings and improvements thereon are and shall continue to be (i) free of toxic waste, asbestos and other hazardous materials and (ii) in compliance with all applicable laws, rules, regulations or orders pertaining to health, the environment or hazardous materials.

18. Mortgagor covenants, represents and warrants that the use of the property complies with all laws, ordinances, regulations and requirements of all governmental bodies having jurisdiction over the mortgaged premises.

19. Mortgagor and any owner of the premises shall deposit with the holder of this Mortgage equal monthly payments sufficient in amount to accumulate funds for the payment of the following items thirty (30) days before the same become due in each instance; a) Taxes; b) Assessments; c) Hazard Insurance Premiums; d) Principal and interest on prior mortgages. An advance deposit shall be made at the time of the execution of this Mortgage, in an amount which, when added to the monthly payments thereafter to be made will create the funds necessary to meet the said charges as they next accrue. The amount of the said advance deposit and the amounts of all subsequent monthly deposits shall be determined by the holder hereof from time to time, based upon current and estimated future requirements. The said

funds shall bear no interest. If the holder shall assign this Mortgage, he shall transfer the said funds to the assignees, and upon notice to the owner of the premises of said transfer and assignment, the holder of this Mortgage shall be absolved of any responsibility in reference thereto and Mortgagor or owner of the premises shall look solely to the assignee and transferee in reference thereto. Upon any sale of the premises, the owner of the premises shall be entitled to a certificate by the owner of this Mortgage, of the amount on deposit and shall credit the same to the new owner upon written notice of such sale. Like certification shall be given to any owner of the premises from time to time, but no more often than once each six (6) months (unless there be more frequent sales). The holder of this Mortgage shall apply the said deposits toward the payment of such items as they accrue; but if there be a default in the payment of principal and/or interest hereunder, or a default in any of the terms of this or any prior mortgage, the holder hereof may apply the said funds toward the payment of the indebtedness secured under this Mortgage. Upon full payment of the indebtedness secured by this Mortgage, the surplus funds on deposit shall be paid over to the record owner of the premises and no other person or corporation shall have any right or claim thereto in any event. If the provisions for payment of principal and/or interest on the indebtedness secured hereunder shall be for monthly payments thereof, then the deposits herein provided for shall be made together with said monthly payments. If the said payments are to be made less frequently than in monthly payments, then said deposits shall be made on the first day of each month commencing with the first day of the month immediately following the date of this Mortgage. Failure to make any such payments shall, at the option of the holder of this Mortgage, be treated as a default in payment of principal and/or interest hereunder with the same rights and remedies as in such other defaults. Such escrow deposits shall not be required provided Mortgagor is not in default of any of the terms, covenants, conditions and agreements contained herein.

20. Any provision in this rider or in this Mortgage to the contrary notwithstanding, Mortgagor shall furnish to the holder of this Mortgage proof of payment of real estate taxes and water charges assessed against the premises within twenty (20) days after the same are due and payable. Proof of payment shall be by receipted bills from the payee.

21. Any payment made in accordance with the terms of this Mortgage by any person at any time liable for the payment of the whole or any part of the sums now or hereafter secured by this Mortgage, or by any subsequent owner of the mortgaged premises, or by any other person whose interest in the premises might be prejudiced in the event of a failure to make such payment, or by any other person whose interest in the premises might be prejudiced in the event of a failure to make such payment, or by any stockholder, officer or director of a corporation which at any time may be liable for such payment or may own or have such an interest in the premises, shall be deemed, as between Mortgagee and all persons who at any time may be

liable as aforesaid or may own the premises, to have been made on behalf of all such persons.

22. Mortgagor covenants and agrees that in the event any check tendered by Mortgagor or on behalf of Mortgagor in payment of any of the obligations of Mortgagor under this Mortgage or the Note secured hereby is returned unpaid by the Bank upon which such payment is drawn, then in such event, Mortgagor shall pay to Mortgagee a fee of FIFTY DOLLARS (\$50.00) to reimburse Mortgagee for the administrative expenses incurred by Mortgagee on account of such returned check. Such fee shall be paid with the next payment due under the terms of this Mortgage or the Note secured hereby. Any default in the payment of such fee shall be deemed a default in the payment of principal and/or interest hereunder.

23. Mortgagor or then owner of the Premises shall deliver to Mortgagee, within thirty (30) days after the end of each year, without notice or demand by Mortgagee, a statement in such reasonable detail, certified by Mortgagor or then owner of the Premises or an executive officer of the corporate mortgagor or owner, setting forth the names of the tenants, the apartments or commercial space they occupy and the lease expiration dates, and the income and expense from the conduct of the operation of the Premises. The failure to submit said reports within the time hereinabove provided shall be deemed a default under the terms and conditions of this Mortgage in which event Mortgagee may exercise the option of declaring the entire unpaid balance immediately due and payable.

24. Mortgagor shall furnish to mortgagee promptly copies of all notices which Mortgagor shall give to or receive from tenants of the Premises or any part thereof based upon the occurrences or alleged occurrence, of any default or defaults in the performance of leases of space by tenants occupying any portion of the Premises.

25. Mortgagor agrees to maintain a separate lease security account for tenants' lease securities held by Mortgagor on behalf of tenants at the Premises, in accordance with the provisions of all applicable laws and statutes as same may be amended from time to time.

26. Any sums advanced by Mortgagee to preserve or maintain the security of the debt shall be paid by Mortgagor to Mortgagee immediately upon demand for same, together with interest at the rate provided hereunder from the date of advance until the date of demand, and if not paid after demand or if such advance is made after default, at the default rate and any and all sums so advanced by Mortgagee either before or after foreclosure proceedings are commenced, shall be deemed to be secured by this Mortgage.

27. a. Mortgagor will not (i) execute an assignment of the rents, or any part



thereof, from the Premises without Mortgagee's prior written consent, (ii) modify any lease having an unexpired term of 1 year or more so as to decrease the amount of the rents payable thereunder, (iii) accept prepayments of any installments of rents to become due under such leases, except prepayments in the nature of security for the performance of the lessees thereunder or (iv) in any other manner impair in any material respect the value of the Mortgaged Property or the security of this Mortgage.

b. Mortgagor will not execute any lease of all or a substantial portion of the Premises except for actual occupancy by the lessee thereunder and will at all times promptly and faithfully perform or cause to be performed all of the covenants, conditions and agreements contained in all leases of the Premises on the part of the lessor thereunder to be kept and performed and will at all times do all things necessary to compel performance by the lessee under each lease of all obligations, covenants and agreements by such lessee to be performed thereunder. If any such leases provides for the giving by the lessee of certificates with respect to the status of such leases, Mortgagor shall exercise its right to request such certificates within five (5) days of any demand therefor by Mortgagee.

c. Each future lease of the Premises, or any part thereof, shall provide that, in the event of the enforcement by Mortgagee of the remedies provided for by law or by this Mortgage, the lessee thereunder will, upon request of any person succeeding to the interest of Mortgagor as a result of such enforcement, automatically become the lessee of said successor in interest, without change in the terms or other provisions of such lease, provided, however, that such successor in interest shall not be bound by (i) any payment of rent or additional rent for more than one (1) month in advance, except prepayments in the nature of security for the performance by such lessee of its obligations under such lease, or (ii) any amendment or modification of the lease made without the consent of Mortgagee or such successor in interest. Each lease shall also provide that, upon request by such successor in interest such lessee shall execute and deliver an instrument or instruments confirming such attornment.

d. Mortgagor shall furnish to Mortgagee, within thirty (30) days after a request by Mortgagee to do so, a written statement containing the names of all lessees of the Premises, the terms of their respective leases, the space occupied and the rentals payable thereunder.

e. Mortgagor shall not enter into any lease or agreement with respect to the Premises in excess of a period of one (1) year except if required by law.

28. The failure of Mortgagor to pay any installment of principal and/or interest on any mortgage given by Mortgagor or any related entity of Mortgagor to Mortgagee or any related entity of Mortgagee prior or subsequent hereto on any other property or the failure of Mortgagor to otherwise comply with any of the other terms, provisions,

and conditions of any other mortgage given by Mortgagor or any related entity of Mortgagor to Mortgagee or any related entity of Mortgagee prior or subsequent hereto shall be deemed a default in the payment of an installment of principal and/or interest under the terms of this Mortgage.

29. It shall be considered an event of default and the whole of the principal sum and the interest thereon at the rate in effect during a period of default as provided in the Note secured by this Mortgage shall become due at the option of Mortgagee:

a. after default in the payment of any installment of principal, interest and/or tax escrow, payments required under the terms of the Mortgage Note or this Mortgage within ten (10) days of the date the same is due;

b. after default in the payment of any tax or assessment for thirty (30) days after the same is due and payable;

c. after default upon notice in keeping in force the insurance required herein

d. after default upon notice and demand either in delivering the policies of insurance herein described or referred to or in reimbursing Mortgagee for premiums paid on such insurance, as herein provided;

e. after default for thirty (30) days upon notice and demand in the payment of any installment which may not then be due or delinquent of any assessment for local improvement for which an official bill has been issued by the appropriate authorities and which may now or hereafter affect the premises and may be or become payable in installments;

f. upon the actual or threatened waste, removal or demolition of, or material alteration to, any part of the premises or any of the personal property inside the premises;

g. upon the election by Mortgagee to accelerate the maturity date of said principal sum pursuant to the provisions of said Note or of any other instrument which may be held by Mortgagee as additional security for said Note;

h. the insolvency or inability of Mortgagor to pay its debts as they mature or the appointment of a receiver, trustee, custodian or other fiduciary of for any of the property of or an assignment for the benefit of creditors by, or the making of or entering into a trust mortgage or deed or other instrument of similar import for the benefit of creditors generally by Mortgagor; or the convening of a meeting of the creditors or the selection of a committee representing the creditors of Mortgagor; or

i. the filing of a petition, complaint, motion or other pleading seeking any relief under any receivership, insolvency or debtor relief law, or seeking any readjustments of indebtedness, reorganization, composition, extension or any similar type of relief, or the filing of a petition, complaint or other motion under any chapter of the United States Bankruptcy Code (hereinafter referred to as the "Code") as the same now exists or may hereafter be amended by or against Mortgagor, or the entry of any order for relief under any chapter of the Code against Mortgagor; or

j. non-performance by Mortgagor of any agreement, covenant or condition contained in this mortgage or any other instrument executed with respect to the premises.

30. In the event Mortgagee obtains a Judgment of Foreclosure, a reasonable legal fee of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) or such other greater actual sum as Mortgagee or its attorney may show is due for the fair value of their services and the costs and expenses of the action shall be payable by Mortgagor and shall constitute part of the principal obligation hereunder.

31. Mortgagor agrees to pay a reasonable satisfaction fee to Mortgagee for preparation of the satisfaction of the mortgage.

