

# NOT AN OFFICIAL DOCUMENT

01/11/2024 09:52 AM  
TOTAL FEES: \$5.00  
BY: JAS  
PG #: 31  
RECORDED AS PRESENTED

STATE OF INDIANA  
CLARK COUNTY  
FILED FOR RECORD  
GINA PIMENTEL  
RECORDER

CNNW8303947

## MORTGAGE, SECURITY AGREEMENT, AND FIXTURE FILING

This MORTGAGE, SECURITY AGREEMENT, AND FIXTURE FILING (this "*Mortgage*") is executed and granted as of January 11, 2024, by and from INDIANA MHP ESTATES LLC, an Indiana limited liability company with an address of 905 W. 37<sup>th</sup> Ave., Hobart, IN 46342 (together with its successors and assigns, "*Owner*" and "*Mortgagor*") for the benefit of DCR MORTGAGE 11 SUB 2, LLC, a Delaware limited liability company, with an address of 150 Second Avenue North, Suite 1600, St. Petersburg, Florida 33701 (together with its successors and assigns, "*Lender*").

### RECITALS:

Mortgagor has borrowed the sum of up to \$2,900,000.00 from Lender (the "*Loan*"), and the Loan is evidenced by the Note (as defined below) and the Loan Documents (as defined below). As a condition precedent to making the Loan, Lender has required that Mortgagor execute this Mortgage as security for the Loan and the Loan Obligations (as defined below).

### AGREEMENT:

NOW, THEREFORE, Mortgagor does hereby irrevocably MORTGAGE AND WARRANT unto Lender, its successors and assigns, in trust, with right of entry and possession, the Mortgaged Property (defined below) and grants to Lender all of Mortgagor's right, title and interest in and to the Mortgaged Property;

TO HAVE AND TO HOLD, the Mortgaged Property, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining unto the said Lender and its successors and assigns, in fee simple forever; and the said Mortgagor does hereby covenant and warrant with Lender, its successors and assigns, that Mortgagor, either collectively or individually, is lawfully seized in fee of the Mortgaged Property; that Mortgagor, either collectively or individually, has a good right to mortgage the same; that the same is unencumbered; and that the title and quiet possession thereto Mortgagor will and Mortgagor's successors shall warrant and forever defend against the lawful claims of all persons claiming by, through or under Mortgagor;

TO SECURE to Lender the repayment of the Loan Obligations (as defined below) in the manner stipulated herein, in the Note and in the other Loan Documents, and the performance by Mortgagor of the Loan Obligations, subject however to the terms and conditions herein;

PROVIDED, HOWEVER, that if Mortgagor shall pay to the Lender the entire indebtedness at the times and in the manner stipulated herein, in the Note and in the other Loan Documents, all without any deduction or credit for taxes or other similar charges paid by the Mortgagor, and shall cause all other obligated parties to keep, perform, and observe all of the Loan Obligations without fraud or delay, then this Mortgage and all the properties, interests, and rights hereby granted, bargained, and sold shall cease, terminate, and be void, but shall otherwise remain in full force and effect;

AND, the Mortgagor covenants and agrees as follows:

CHICAGO TITLE INSURANCE COMPANY

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1. **CERTAIN DEFINITIONS.** The following terms, when used in this Mortgage (including when used in the above recitals), shall have the following meanings:

(a) **"Additions"** means any and all alterations, replacements, substitutions, additions, accessions, and improvements to property.

(b) **"Appurtenant Rights"** means all air rights, development rights, zoning rights, easements, rights-of-way, strips and gores of land, vaults, streets, roads, alleys, tenements, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter appurtenant to, or located on, under or above the Land, or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Land, or any part thereof.

(c) **"Beneficiary"** means Lender and its successors and assigns.

(d) **"Casualty"** means any act or occurrence of any kind or nature that results in damage, loss or destruction to the Property.

(e) **"Claim"** means any liability, suit, action, claim, demand, loss, expense, penalty, fine, judgment or other cost of any kind or nature whatsoever, including fees, costs and expenses of attorneys, consultants, contractors and experts.

(f) **"Chattel Paper"** means chattel paper (as defined in the UCC) arising from or in connection with the Property or the operation thereof.

(g) **"Commercial Tort Claims"** means commercial tort claims (as defined in the UCC) arising from or in connection with the Property or the operation thereof.

(h) **"Condemnation"** means any taking of title to, use of, or any other interest in the Property under the exercise of the power of condemnation or eminent domain, whether temporarily or permanently, by any Governmental Authority or by any other Person acting under or for the benefit of a Governmental Authority.

(i) **"Condemnation Awards"** means any and all judgments, awards of damages (including severance and consequential damages), payments, proceeds, settlements, amounts paid for a taking in lieu of Condemnation, or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, or in connection with, any Condemnation or threatened Condemnation.

(j) **"Default"** means an event or circumstance which, with the giving of Notice or lapse of time, or both, would constitute a Default under the provisions of this Mortgage.

(k) **"Deposit Accounts"** means deposit accounts (as defined in the UCC) arising from or in connection with the Property or the operation thereof, and any other deposit accounts owned by Mortgagor.

(l) **"Documents"** means documents (as defined in the UCC) arising from, in connection with or related to the Property or the operation thereof.

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(m) **“Encumbrance”** means any Lien, easement, right of way, roadway (public or private), condominium regime, cooperative housing regime, condition, covenant or restriction (including any condition, covenant or restriction imposed in connection with any condominium development or cooperative housing development), Lease or other matter of any nature that would affect title to the Property.

(n) **“Equipment”** means equipment (as defined in the UCC) located at, used in or useful in connection with the Property or the operation thereof.

(o) **“Event of Default”** shall have the meaning ascribed to it in Section 6 of the Loan Agreement, and shall include the failure of Mortgagor to comply with the terms and covenants in this Mortgage beyond any applicable cure period set forth herein or in the Loan Agreement.

(p) **“Expenses”** means all fees, charges, costs and expenses of any nature whatsoever incurred at any time and from time to time by Beneficiary in connection with the Loan, including without limitation, in exercising or enforcing any rights, powers and remedies provided in this Mortgage or any of the other Loan Documents, including attorneys’ fees.

(q) **“Fixtures”** means fixtures (as defined in the UCC) located at, used in or useful in connection with the Property or the operation thereof.

(r) **“General Intangibles”** means general intangibles (as defined in the UCC) arising from, in connection with or related to the Property or the operation thereof, and includes, without limitation, all names under or by which the Property may be operated or known, and all trademarks, trade names, and goodwill relating to the Property.

(s) **“Goods”** means goods (as defined in the UCC) that are located at, used in or useful in connection with the Property or the operation thereof.

(t) **“Governmental Authority”** means any board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the use, operation or improvement of any part of the Land, the Improvements or the Property.

(u) **“Impositions”** means to the extent applicable, (i) any water and sewer charges which may be levied on all or any part of the Mortgaged Property, (ii) the premiums for fire and other hazard insurance, rent loss insurance, general and professional liability insurance, and such other insurance as Lender may require under any of the Loan Documents, (iii) the yearly Taxes (including real estate taxes and assessments), and (iv) amounts for other charges and expenses which Lender at any time reasonably deems necessary to protect the Mortgaged Property, to prevent the imposition of liens on the Mortgaged Property, or otherwise to protect Lender’s interests, all as reasonably estimated from time to time by Lender.

(v) **“Improvements”** means all buildings, Fixtures, structures and improvements of every nature whatsoever now or hereafter situated on the Land, including any future replacement and additions thereto and including the Property.

(w) **“Indemnity Agreement”** means the Hazardous Substances Indemnification and Warranty Agreement of even date herewith by Borrower in favor of Lender pertaining to the Property, as the same may from time to time be extended, amended, restated or otherwise modified.

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(x) **"Indebtedness"** means the principal of, interest on (including any interest accruing after the filing of any petition in bankruptcy or the commencement of any insolvency reorganization or like proceeding relating to Mortgagor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), and all other amounts due at any time under or pursuant to the Note, the Mortgage or any other Loan Document, including prepayment premiums, if any, late charges, exit fees (if any), default interest, and advances to protect the security of the Mortgage.

(y) **"Instruments"** means instruments, as such term is defined in the UCC, arising from, in connection with, or related to the Property or the operation thereof.

(z) **"Insurance Proceeds"** means the insurance claims under and the proceeds of any and all policies of insurance covering the Property or any part thereof, including all returned and unearned premiums with respect to any insurance relating to such Property, in each case whether now or hereafter existing or arising.

(aa) **"Inventory"** means inventory (as defined in the UCC), located at, used in, or useful in connection with the Property or the operation thereof.

(bb) **"Investment Property"** means investment property (as defined in the UCC) arising from, in connection with or related to the Property or the operation thereof.

(cc) **"Land"** means the real property described in Exhibit A attached hereto and incorporated herein.

(dd) **"Lease"** means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Land, the Property and/or Improvements, or any portions of the Land, the Property and/or Improvements and all modifications, extensions or renewals thereof.

(ee) **"Lender"** shall have the meaning set forth in the initial paragraph hereof.

(ff) **"Letter-of-Credit Rights"** means letter-of-credit rights (as defined in the UCC) arising from, in connection with or relating to the Property or the operation thereof.

(gg) **"Lien"** means any mortgage, deed of trust, deed to secure debt, pledge, security interest, assignment, judgment, lien or charge of any kind, including any conditional sale or other title retention agreement, any lease in the nature thereof, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code of any jurisdiction.

(hh) **"Loan"** shall have the meaning ascribed to it in the Recitals above.

(ii) **"Loan Agreement"** means that certain Loan Agreement by and between Mortgagor and Lender of even date herewith, together with all supplements, amendments, amendments and restatements, and other modifications thereto.

(ij) **"Loan Documents"** means, collectively, this Mortgage, the Note, the Loan Agreement, the Assignment of Leases and Rents, the Security Agreement, an assignment and subordination of management agreement, an assignment of contracts, licenses and permits, any guaranty (full or partial), any escrow agreements, certificates, guaranty or indemnity and all other documents, instruments, perfection certificates and agreements executed by Mortgagor,

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Guarantors or their Affiliates in connection with the Loan or to otherwise evidence or secure the Loan, and all renewals, extensions, supplements and amendments thereto and amendments and restatements thereof.

(kk) **“Loan Obligations”** means the Indebtedness and all covenants, agreements and other obligations from time to time owing to, or for the benefit of, Lender pursuant to any of the Loan Documents, including all reimbursement obligations, fees, expenses, indemnification and reimbursement payments, costs and expenses (including all reasonable fees and expenses of counsel to Lender incurred pursuant to this Mortgage or any other Loan Document), whether direct or indirect, absolute or contingent, liquidated or unliquidated, now existing or hereafter arising hereunder or thereunder, together with all renewals, extensions, amendments, modifications or refinancings of any of the foregoing.

(ll) **“Money”** means all monies, cash, rights to deposit or savings accounts or other items of legal tender obtained from or for use in connection with the Property or the operation thereof.

(mm) **“Mortgage”** shall have the meaning set forth in the initial paragraph hereof.

(nn) **“Mortgaged Property”** means all of the following property whether now owned, leased or hereafter any time acquired or leased by Mortgagor:

- (i) the Land and all Appurtenant Rights and Improvements;
- (ii) all mobile homes described in Exhibit B attached hereto and incorporated herein and any future mobile or manufactured homes hereafter acquired and placed on or attached to the Land;
- (iii) all Accounts, Chattel Paper, Commercial Tort Claims, Deposit Accounts, Documents, Equipment, Fixtures, General Intangibles, Goods, Instruments, Inventory, Investment Property, Leases, Letter-of-Credit Rights, Money, Permits, Personalty, Rents and Supporting Obligations;
- (iv) all contracts, options and other agreements for the sale of all or part of any of the property set forth in clauses (i) and (ii) above entered into by Mortgagor now or in the future, including cash or securities deposited to secure performance by parties of their obligations;
- (v) all amounts deposited with Lender to fund Impositions and all refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Mortgage is dated);
- (vi) all awards, payments, earnings, royalties, issues, profits, liquidated claims, and proceeds (including proceeds of insurance and condemnation or any conveyance in lieu thereof), cash and noncash, from the sale, conversion (whether voluntary or involuntary), exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the foregoing; and
- (vii) any other property or assets, tangible or intangible, pledged or assigned to Lender under any Loan Documents.

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provided, however that with respect to any items that are leased and not owned by Mortgagor, the term “Mortgaged Property” includes the leasehold interest only of Mortgagor together with any options to purchase any of said items and any additional or greater rights with respect to such items that Mortgagor may hereafter acquire.

(ee) “**Mortgagor**” shall have the meaning set forth in the recitals hereof.

(ff) “**Net Proceeds**,” when used with respect to any Condemnation Awards or Insurance Proceeds, means the gross proceeds from any Condemnation or Casualty remaining after payment of all expenses, including attorneys’ fees, incurred in the collection of such gross proceeds.

(gg) “**Note**” means the Promissory Note of even date herewith in the principal amount of \$2,900,000.00 with a maturity date of February 1, 2026 payable by Borrower in favor of or for the benefit of Lender evidencing the Indebtedness, including all schedules, riders, allonges, addenda, amendments or amendment and restatements together with any renewals, replacements or extensions thereof.

(hh) “**Owner**” shall have the meaning set forth in the initial paragraph hereof.

(ii) “**Permits**” means all licenses, permits and certificates used or useful in connection with the ownership, operation, use or occupancy of the Property.

(ij) “**Permitted Discretion**” means, with respect to any Person, a determination or judgment made by such Person in good faith in the exercise of reasonable (from the perspective of a secured lender) credit or business judgment.

(kk) “**Person**” shall mean any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity, party or government (whether national, federal, state, county, city, municipal or otherwise, including without limitation, any instrumentality, division, agency, body or department thereof).

(ll) “**Personalty**” means all furniture, furnishings, Equipment, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software) and other tangible personal property (other than Fixtures) that are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, and any operating agreements relating to the Land or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements.

(mm) “**Proceeds**” when used with respect to any of the Property, means all proceeds of such Property, including all Insurance Proceeds and all other proceeds within the meaning of that term as defined in the Uniform Commercial Code of the State.

(nn) “**Property**” means the Real Property and the Personalty and all other rights, interests and benefits of every kind and character which Mortgagor now has or hereafter acquires in, to or for the benefit of the Real Property and/or the Personalty and all other property and rights used or useful in connection therewith, including all Leases, all Rents, all Condemnation Awards, and all Proceeds.

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(oo) “**Property Assessments**” means all Taxes, payments in lieu of taxes, water rents, sewer rents, assessments, condominium and owner’s association assessments and charges, maintenance charges and other governmental or municipal or public or private dues, charges and levies and any Liens (including federal tax liens) which are or may be levied, imposed or assessed upon the Property or any part thereof, or upon any Leases or any Rents, whether levied directly or indirectly or as excise taxes, as income taxes, or otherwise.

(pp) “**Real Property**” means the Land and Improvements, together with (a) all estates, title interests, title reversion rights, remainders, increases, issues, profits, rights of way or uses, additions, accretions, servitudes, strips, gaps, gores, liberties, privileges, water rights, water courses, alleys, passages, ways, vaults, licenses, tenements, franchises, hereditaments, appurtenances, easements, rights-of-way, rights of ingress or egress, parking rights, timber, crops, mineral interests and other rights, now or hereafter owned by Mortgagor and belonging or appertaining to the Land or Improvements; (b) all Claims whatsoever of Mortgagor with respect to the Land or Improvements, either in law or in equity, in possession or in expectancy; (c) all estate, right, title and interest of Mortgagor in and to all streets, roads and public places, opened or proposed, now or hereafter adjoining or appertaining to the Land or Improvements; and (d) all options to purchase the Land or Improvements, or any portion thereof or interest therein, and any greater estate in the Land or Improvements, and all Additions to and Proceeds of the foregoing.

(qq) “**Rents**” means all of the rents, royalties, issues, profits, revenues, earnings, income and other benefits of the Property, or arising from the use or enjoyment of the Property, including all such amounts paid under or arising from any of the Leases and all fees, charges, accounts or other payments for the use or occupancy of rooms or other public facilities within the Real Property.

(rr) “**State**” means the State of Indiana.

(ss) “**Taxes**” means all taxes and assessments, whether general or special, ordinary or extraordinary, or foreseen or unforeseen, which at any time may be assessed, levied, confirmed or imposed by any Governmental Entity or any community facilities or other private district on Mortgagor or on any of its properties or assets or any part thereof or in respect of any of its franchises, businesses, income or profits.

(tt) “**Transfer**” means any direct or indirect sale, assignment, conveyance or transfer, including any contract or agreement to sell, assign, convey or transfer, whether made voluntarily or by operation of Law or otherwise, and whether made with or without consideration.

(uu) “**Supporting Obligation**” means a supporting obligation (as defined in the UCC) arising from, in connection with, or related to the Property or the operation thereof.

(vv) “**UCC**” means the Uniform Commercial Code as adopted in the State of Indiana.

(ww) “**UCC Property**” shall have the meaning set forth in Section 2.

**Capitalized terms not defined herein shall have the meanings ascribed to them in the Loan Agreement.**

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## 2. UCC SECURITY AGREEMENT.

(a) This Mortgage is also a security agreement under the UCC for any of the Mortgaged Property which, under applicable law, may be subject to a security interest under the UCC (the "UCC Property"), and Mortgagor hereby grants to Lender a security interest in the Mortgaged Property to secure the Loan Obligations: and in all of the following related to or constituting a part of the Mortgaged Property to secure the Loan Obligations: (i) all goods, building and other materials, supplies, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property and embedded software therein, wherever situated, which are or are to be incorporated into, used in connection with, or appropriated for use on (A) the real estate described on Exhibit A attached hereto and incorporated by reference herein, or (B) any existing or future improvements to said real estate; (ii) all rents (to the extent, if any, they are not real property); (iii) all inventory, accounts, cash receipts, deposit accounts, accounts receivable, contract rights, licenses, agreements, general intangibles, chattel paper (whether electronic or tangible), instruments, documents, promissory notes, drafts, letters of credit, letter of credit rights, supporting obligations, insurance policies, insurance and condemnation awards and proceeds, any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the ownership, management, leasing or operation of the Mortgaged Property or any business now or hereafter conducted thereon by Mortgagor; (iv) all development rights and credits; (v) all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Mortgaged Property; (vi) all deposits or other security now or hereafter made with or given to utility companies by Mortgagor with respect to the Mortgaged Property; (vii) all advance payments of insurance premiums made by Mortgagor with respect to the Mortgaged Property; (viii) all plans, drawings and specifications relating to the Mortgaged Property; (ix) all loan funds held by Lender and/or any of its affiliate banks, whether or not disbursed; (x) all funds deposited with Lender and/or any of its affiliate banks pursuant to any loan agreement; (xi) all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Mortgaged Property or any portion thereof; (xii) all of Mortgagor's right, title and interest, now or hereafter acquired, to the payment of money from Lender to Mortgagor under any swap, derivative, foreign exchange or hedge transaction or arrangement (or similar transaction or arrangement howsoever described or defined) at any time entered into between Mortgagor either alone or with a co-Mortgagor of Mortgagor) and Lender in connection with the Note; (xiii) all replacements and proceeds of, and additions and accessions to, any of the foregoing; together with all books, records and files relating to any of the foregoing. All of Mortgagor's property subject hereto which constitutes personal property or fixtures is hereinafter referred to as the "Collateral". In addition to its rights hereunder or otherwise, Lender shall have all of the rights of a secured party under the UCC, or under the Uniform Commercial Code in force in any other state to the extent the same is applicable law. Lender is hereby authorized to file with the appropriate filing authority any financing statements, continuation statements and amendments, in such form as Lender may require to perfect or continue the perfection of this security interest. Mortgagor shall pay all filing costs and all costs and expenses of any record searches for financing statements that Lender may require in its normal and customary operations. Without the prior written consent of Lender, Mortgagor shall not create or permit to exist any other lien or security interest in any of the Mortgaged Property. If an Event of Default has occurred and is continuing beyond any applicable notice and cure period, Lender shall have the remedies of a secured party under the UCC, in addition to all remedies provided by this Mortgage, the Loan Agreement or the other Loan Documents, or existing under applicable law, including but not limited to: the right to require Mortgagor to assemble such UCC Property and make it available to Lender at a place to be designated by Lender which is reasonably convenient to both parties; the right to take possession of the Personality with or without demand and with or without process of



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law; and the right to sell and dispose of the same and distribute the proceeds according to law. The parties hereto agree that any requirement of reasonable notice shall be met if Lender sends such notice to Mortgagor at least ten (10) Business Days prior to the date of sale, disposition or other event giving rise to the required notice, and that the proceeds of any disposition of any UCC Property may be applied by Lender first to the reasonable expenses in connection therewith, including reasonable attorneys' fees and legal expenses incurred, then to any fees and interest (including any items owed at the Default Rate), and then to payment of the Indebtedness. In exercising any remedies, Lender may exercise its remedies against the Mortgaged Property separately or together and in any order, without in any way affecting the availability of Lender's other remedies under applicable law.

(b) Mortgagor and Lender also agree: (i) With respect to any of the UCC Property that has become so attached to the Land that an interest therein arises under the laws of the State of Indiana, this Mortgage shall also constitute a financing statement and a fixture filing under the UCC and is to be filed for record in the real estate records in the county where the Property (including said fixtures) is situated; (ii) that this Mortgage shall constitute a Security Agreement within the meaning of Article 9 (Ind. Code § 26-1-9.1 et seq.) of the UCC with respect to any property included in the definition herein of the word "Collateral," which property may or may not constitute a "fixture" (within the meaning of Section 9.1-334 of the UCC), and all replacements of such property, substitutions for such property, additions to such property, and the proceeds thereof (all of which shall be included in the meaning of the term "Collateral"); and (iii) that a security interest in and to the Collateral is hereby granted to Lender; all to secure payment and performance of the Loan Obligations. It is intended that as to the fixtures, as such term is defined in Ind. Code § 26-1-9.1-102(a)(41), that are part of the Mortgaged Property, this Mortgage shall be effective as a continuously perfected financing statement filed pursuant to Ind. Code § 26-1-9.1-515 as a fixture filing from the date of the filing of this Mortgage for record with the Recorder of Lake County, Indiana. Mortgagor hereby appoints Lender as its attorney-in-fact to execute and file on its behalf any financing statements, continuation statements or other statements in connection therewith which Lender deems necessary or reasonably advisable to preserve and maintain the priority of the lien hereof, or to extend the effectiveness thereof, under the UCC or any other laws which may hereafter become applicable. This power, being coupled with an interest, shall be irrevocable so long as any part of the Loan Obligations remains unpaid. Mortgagor shall pay to Lender, from time to time, upon demand, any and all costs and expenses incurred by Lender in connection with the filing of any such statements including, without limitation, reasonable attorneys' fees and all disbursements and such amounts shall be part of the Loan Obligations. Mortgagor and Lender also agree, to the extent permitted by law, that: (i) all of the goods described within the definition of the word Mortgaged Property herein are or are to become fixtures on the land described in Exhibit A; (ii) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of Sections 9.1-334 and 9.1-502 of the UCC; and (iii) Mortgagor is the record owner of the land described in Exhibit A. In addition to the foregoing, Mortgagor hereby authorizes Lender at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements with or without signature of Mortgagor as authorized by applicable law, as applicable to the Collateral. For purposes of such filings, Mortgagor agrees to furnish any information requested by Lender promptly upon request by Lender. Mortgagor also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto or continuation statements if filed prior to the date of this Mortgage. Mortgagor hereby irrevocably constitutes and appoints Lender and any officer or agent of Lender, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Mortgagor or in Mortgagor's own name to execute in Mortgagor's name any such documents and to otherwise carry out the purposes of this Section

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2.(b) to the extent that Mortgagor's authorization above is not sufficient. To the extent permitted by law, Mortgagor hereby ratifies all acts said attorneys-in-fact shall lawfully do, have done in the past or cause to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable. The mailing addresses of Mortgagor and the address of Lender from which information concerning the security interest may be obtained are set forth above. A carbon, photogenic or other reproduction of this Mortgage or any other financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Mortgage.

(c) Owner is the record owner of the Land, and the addresses of Mortgagor and Lender are as set forth on the first page of this Mortgage. Mortgagor represents and warrants that it is a "registered organization" organized under the laws of its state of organization. Except as may be permitted by the Loan Agreement, Mortgagor covenants that it will not alter such registration without the prior written consent of Lender. Mortgagor further represents and warrants that its name is exactly as set forth in the first page of this Mortgage. Mortgagor also covenants that its name shall not be altered without the prior written consent of Lender. Mortgagor hereby acknowledges and agrees that this Mortgage is an authenticated record, and authorizes the filing of financing statements by Lender without the execution thereof by Mortgagor. To the fullest extent permitted by law, Mortgagor: (i) agrees that it will not claim or take the benefit or advantage of any law now or hereafter in force providing for any damages, penalty, or fee against Lender for failure to furnish Mortgagor with any financing statement filed by Lender pursuant to this Section; and (ii) waives and releases all rights to collect or receive any damages, penalty, or fee from Lender for failure to furnish Mortgagor with any such financing statement.

(d) For purposes of this Section 2, the address for Indiana MHP Estates LLC, as debtor, is 905 W. 37<sup>th</sup> Ave., Hobart, IN 46342, and the address of DCR Mortgage 11 SUB 2, LLC, as secured party, is 150 Second Avenue North, Suite 1600, St. Petersburg, FL 33701.

3. **MATURITY DATE AND PREPAYMENT OF NOTE.** The Loan shall be due and payable on February 1, 2026, which is the Maturity Date (as defined in the Note). The Note is payable without relief from valuation and appraisal laws, and may be prepaid as provided therein and/or in the Loan Agreement.

#### 4. **PROTECTION OF LENDER'S SECURITY.**

(a) If Mortgagor fails to perform any of its obligations under this Mortgage or any other Loan Document, or if any action or proceeding is commenced which purports to materially and adversely affect the Mortgaged Property, as determined by Lender in its sole discretion, Lender's security or Lender's rights under this Mortgage, including insolvency, code enforcement, civil or criminal forfeiture or fraudulent conveyance, then Lender at Lender's option may make such appearances, disburse such sums and take such actions as Lender deems necessary to perform such obligations of Mortgagor and to protect Lender's interest, including, without limitation, (i) disbursement of fees and out of pocket expenses of attorneys, accountants, inspectors and consultants, (ii) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (iii) procurement of the insurance coverages required under the Loan Documents, and (iv) payment of amounts which Mortgagor has failed to pay under the Loan Documents.

(b) Any amounts disbursed by Lender under this Section, or under any other provision of this Mortgage that treats such disbursement as being made under this Section, shall

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be added to, and become part of the Indebtedness, shall be due and payable within ten (10) Business Days after demand thereof and shall bear interest from disbursement until paid at the Default Rate.

(c) Nothing in this Section shall require Lender to incur any expense or take any action.

5. **NO OTHER LIENS OR ENCUMBRANCES.** Mortgagor acknowledges that the existence of any mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance on the Mortgaged Property, or any part thereof, whether voluntary, involuntary or by operation of law, other than liens and encumbrances of Lender on the Mortgaged Property, are prohibited, unless otherwise permitted hereunder or by Lender in its sole and absolute discretion.

6. **PRESERVATION, MANAGEMENT AND MAINTENANCE OF MORTGAGED PROPERTY.** Mortgagor (a) shall not commit voluntary waste or permit impairment or deterioration of the Mortgaged Property; (b) shall not abandon the Mortgaged Property or any part thereof; (c) shall restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition, or such other lesser condition as Lender may approve in writing in its Permitted Discretion but subject to Mortgagor's right to receive insurance and condemnation proceeds, if any, as provided herein and in the Loan Documents; (d) shall keep the Mortgaged Property in good repair and condition as set forth in the Loan Documents; (e) shall replace Personalty and Fixtures with items of equal or better function and quality as set forth in the Loan Documents; and (f) shall give notice to Lender of and, unless otherwise directed in writing by Lender, shall appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Lender's security or Lender's rights under this Mortgage. Mortgagor shall not (and shall not permit any other Person to) remove, demolish or alter the Mortgaged Property or any part of the Mortgaged Property except in connection with the replacement of tangible Personalty or Fixtures in like or better quality or as otherwise permitted in the Loan Agreement.

## 7. CONDEMNATION.

(a) Mortgagor shall promptly notify Lender of any pending or threatened action or proceeding of which Mortgagor is aware relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a "**Condemnation**"). Mortgagor shall appear in and prosecute or defend any proceeding relating to any Condemnation unless otherwise directed by Lender in writing. Upon the occurrence of an Event of Default and provided such Event of Default is continuing, Mortgagor authorizes and appoints Lender as attorney-in-fact for Mortgagor to commence, appear in and prosecute, in Lender's or Mortgagor's name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 7 shall require Lender to incur any expense or take any action. Except as provided in the Loan Documents, Mortgagor hereby transfers and assigns to Lender all right, title and interest of Mortgagor in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.

(b) Lender may apply such awards or proceeds, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to the restoration or repair of the Mortgaged Property or to the payment of the Indebtedness in the inverse order of maturity, with the balance, if any, to Mortgagor. Unless Lender otherwise agrees in writing, any

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application of any awards or proceeds to the Indebtedness shall not extend or postpone the due date of any monthly installments referred to in the Note or any other Loan Document, or change the amount of such installments. Mortgagor agrees to execute such further evidence of assignment of any awards or proceeds as Lender may require.

## 8. REMEDIES.

(a) Acceleration of Maturity. If an Event of Default shall have occurred, then the entire Indebtedness shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence of this Mortgage, and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right.

(b) Right to Enter and Take Possession.

(i) If an Event of Default shall have occurred and be continuing, Mortgagor, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Mortgaged Property and, if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Mortgaged Property without the appointment of a receiver or an application therefor, and may exclude Mortgagor and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Mortgagor relating thereto.

(ii) If Mortgagor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Lender, then, to the extent permitted by law, Lender may obtain a judgment or decree conferring upon Lender the right to immediate possession or requiring Mortgagor to deliver immediate possession of the Mortgaged Property to Lender. Mortgagor shall pay to Lender, upon written demand, all expenses of obtaining such judgment or decree, including reasonable costs and expenses incurred by Lender, its attorneys and agents, and all such expenses and costs shall, until paid, become part of the Indebtedness and shall be secured by this Mortgage and shall bear interest at the Default Rate.

(iii) Upon every such entering or taking of possession, Lender may from time to time do the following as Lender determines to be in its best interest:

(1) Hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof;

(2) Make any necessary or discretionary maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional Fixtures, Personalty and Equipment;

(3) Insure or keep the Mortgaged Property insured;

(4) Manage and operate the Mortgaged Property and exercise all of the rights and powers of Mortgagor to the same extent as Mortgagor could in its own name;

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(5) Enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be in its best interest; and

(6) Collect and receive all the Rents and Accounts, including those past due as well as those accruing thereafter, and, after deducting (A) all reasonable expenses of taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (B) the reasonable cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (C) the cost of such insurance deemed necessary by Lender; (D) such taxes, assessments and other similar charges as Lender may at its option pay; (E) other proper and reasonable charges upon the Mortgaged Property or any part thereof; and (F) the reasonable fees, expenses and disbursements of the attorneys and agents of Lender, Lender shall apply the remainder of the monies and proceeds so received by Lender, first, to the payment of accrued interest, including interest at the Default Rate; second, to the payment of Impositions and to other sums required to be paid hereunder; and third, to the payment of overdue installments of principal and any other unpaid Indebtedness then due.

(iv) Anything in this Section to the contrary notwithstanding, except for the gross negligence or willful misconduct of Lender in entering and taking possession of the Mortgaged Property pursuant to its rights under this Section, Lender shall not incur any liability as a result of any exercise by Lender of its rights under this Mortgage, and Lender shall be liable to account only for the Rents actually received by Lender.

(v) Mortgagor agrees to promptly notify all of its account debtors, to the extent permitted under applicable law, to make payments to one or more such deposit accounts upon Lender's request and as designated by Lender, and Mortgagor agrees to provide any necessary endorsements to checks, drafts and other forms of payment so that such payments will be properly deposited in such accounts. Lender may require that the deposit accounts be established so as to comply with any requirements applicable to payments of any accounts receivable. Lender may cause moneys to be withdrawn from such deposit accounts and applied to the Indebtedness in such order as Lender may elect. Mortgagor appoints Lender as Mortgagor's attorney-in-fact, which appointment is coupled with an interest and is irrevocable, to provide, after the occurrence of an Event of Default, any notice, endorse any check, draft or other payment for deposit, or take any other action which Mortgagor agrees to undertake in accordance with this Section and/or the Loan Documents.

(vi) Whenever all the outstanding Indebtedness shall have been paid and all Events of Default shall have been cured, Lender shall surrender possession of the Mortgaged Property to Mortgagor, its successors and/or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

(c) Performance by Lender. Upon the occurrence of an Event of Default, Lender may, at its sole option, pay, perform or observe any Loan Obligations, and all payments made or costs or expenses incurred by Lender in connection therewith, with interest thereon at the Default Rate following the occurrence giving rise to the Event of Default at the maximum rate from time to time allowed by applicable law, whichever is less, shall be secured hereby and shall be repaid

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by Mortgagor to Lender within ten (10) Business Days after demand of Lender for reimbursement. Notwithstanding anything to the contrary herein, Lender shall have no obligation, explicit or implied, to pay, perform, or observe any of the Loan Obligations.

(d) Receiver. If any Event of Default shall have occurred and be continuing, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the sufficiency or value of any security for the Indebtedness or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Property and to collect and apply the Rents and Accounts. The receiver shall have all the rights and powers permitted under the laws of the state where the Land is located. Mortgagor shall pay unto Lender upon demand all expenses, including receiver's fees, reasonable attorneys' fees, costs and agent's compensation, incurred pursuant to the provisions of this Section, and upon Mortgagor's failure to pay the same within ten (10) Business Days following Lender's demand, any such amounts shall be added to the Indebtedness and shall be secured by this Mortgage and the other Loan Documents.

(e) Lender's Power of Enforcement. If an Event of Default shall have occurred and be continuing, the Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law, in equity or any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term thereof or any other right; (ii) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, as provided by applicable state law; and (iii) to pursue any other rights or remedies available to it under law for the collection of debts and the enforcement of covenants and conditions such as those contained in the Loan Documents, all as the Lender shall deem most effectual for its benefit.

(f) Purchase by Lender. Upon any foreclosure sale, Lender may bid for and purchase the Mortgaged Property, either for its own account or through an agent, and shall be entitled to apply all or any part of the Indebtedness as a credit to the purchase price.

(g) Application of Proceeds of Sale. In the event of a foreclosure or other sale of all or any portion of the Mortgaged Property, and except as otherwise required by applicable law, the proceeds of said sale shall be applied, first, to the expenses of such sale and of all proceedings in connection therewith, including reasonable attorney's fees and expenses (and reasonable attorney's fees and expenses shall become absolutely due and payable whenever foreclosure is commenced); then to insurance premiums, liens, assessments, taxes and charges, including utility charges and any other amounts advanced by Lender hereunder, and interest thereon at the Default Rate; then to payment of the Loan Obligations in such order of priority as Lender shall determine, in its sole discretion; and finally the remainder, if any, shall be paid to Mortgagor, or to the Person lawfully entitled thereto.

(h) Holding Over. In the event of any such foreclosure sale (if Mortgagor shall remain in possession), Mortgagor shall be deemed a tenant at will holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable thereto.

(i) Waiver of Appraisal, Valuation, Etc. Mortgagor agrees, to the fullest extent permitted by law, that in case of an Event of Default, neither Mortgagor, nor any lessee, nor anyone claiming through or under Mortgagor will assert, claim or seek to take advantage of any appraisal, valuation, stay, extension, exemption or laws now or hereafter in force, in order to prevent or hinder the enforcement of foreclosure of this Mortgage, or the absolute sale of the

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Mortgaged Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale. Mortgagor hereby releases and waives all rights under and by virtue of any homestead exemption.

(j) Discontinuance of Proceedings. In case Lender shall have proceeded to enforce any right, power 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 Lender, then in every such case, Mortgagor and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceedings had occurred.

(k) Waiver.

(i) No delay or omission by Lender or by 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 or in any Loan Document to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver expressed or implied by Lender to or of any breach or default by Mortgagor in the performance of the obligations of Mortgagor hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Mortgagor hereunder. Failure on the part of Lender to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies of Lender hereunder or in any Loan Document.

(ii) No act or omission by Lender shall release, discharge, modify, change or otherwise affect the original liability under the Note, this Mortgage, other Loan Documents or any other obligation of Mortgagor or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then existing or of any subsequent default, nor alter the lien of this Mortgage, except as expressly provided in an instrument or instruments executed by Lender. Without limiting the generality of the foregoing, Lender may, in its sole and absolute discretion:

- (1) Grant forbearance or an extension of time for the payment of all or any portion of the Indebtedness;
- (2) Take other or additional security for the payment of any of the Loan Obligations;
- (3) Waive or fail to exercise any right granted herein, in the Note or in the other Loan Documents;
- (4) Release any part of the Mortgaged Property from the security interest or lien of this Mortgage;
- (5) Consent to the filing of any map, plat or replat affecting the Land;

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(6) Consent to the granting of any easement or other right affecting the Mortgaged Property;

(7) Make or consent to any agreement subordinating the security title or lien hereof; or

(8) Take or omit to take any action whatsoever with respect to the Note, this Mortgage, the other Loan Documents, the Mortgaged Property or any document or instrument evidencing, securing or in any way related to this Mortgage,

all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Lender from exercising any such right, power or privilege with respect to the lien of this Mortgage.

(iii) In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Lender, without notice, is hereby authorized and empowered to deal with any vendee or transferee with respect to the Mortgaged Property or the Indebtedness, or with reference to any of the terms, covenants, conditions or agreements 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 liabilities, obligations or undertakings of Mortgagor, any guarantors of the Loan or others.

(iv) Mortgagor waives and relinquishes any and all rights it may have, whether at law or equity, to require Lender to proceed to enforce or exercise any rights, powers and remedies it may have under the Loan Documents in any particular manner, in any particular order, or in any particular state or other jurisdiction. Mortgagor expressly waives and relinquishes any and all rights and remedies that Mortgagor may have or be able to assert by reason of the laws of the state of jurisdiction pertaining to the rights and remedies of sureties.

(v) Mortgagor makes the arrangements, waivers and relinquishments set forth above knowingly and as a material inducement to Lender in making the Loan, after consulting with and considering the advice of independent legal counsel selected by Mortgagor.

(I) Suits to Protect the Mortgaged Property. Lender shall have power to institute and maintain such suits and proceedings as it may deem expedient:

(i) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or constitute an Event of Default;

(ii) to preserve or protect its interest in the Mortgaged Property and in the Rents and Accounts arising therefrom; or

(iii) 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 materially impair the security hereunder or be prejudicial to the interest of Lender.



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(m) Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor, its creditors or properties, Lender 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 Lender allowed in such proceedings for the entire amount due and payable by Mortgagor under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Mortgagor hereunder after such date.

(n) Setoff. Upon the occurrence of an Event of Default, Lender may exercise the rights and remedies of setoff and/or banker's lien against the interest of Mortgagor in and to every account, deposit account, and other property of Mortgagor that is in the possession of Lender, to the extent of the full amount of the Loan.

(o) Foreclosure of Personality. Upon the happening of any and every Event of Default, Lender may proceed against the Personality as well as the real property should Lender elect to cause any of the Mortgaged Property to be disposed of as personal property because the same is personal property under applicable law. In such event, Lender may dispose of all or any part thereof in any manner now or hereafter permitted by the UCC or in accordance with any other remedy provided in law or in equity. Any such disposition may be conducted by an employee or agent of Lender. Both Mortgagor and Lender shall be eligible to purchase any part or all of such property at such disposition. Any such disposition may be either public or private as Lender may so elect, in its sole discretion, subject to the provisions of the UCC. Lender shall have all of the rights and remedies of a secured party under the UCC. Expenses of retaking, holding, preparing for sale, selling or the like shall include Lender's reasonable and actual attorney's fees and legal expenses. Upon the occurrence of any Event of Default, Mortgagor, upon written demand of Lender, shall assemble such personal property and make it available to Lender at a place which is deemed to be reasonably convenient to both Lender and Mortgagor. Lender shall give Mortgagor at least five (5) Business Days' prior written notice (or a longer period if then required in accordance with the laws of the State of Indiana) of the time and place of any public sale or other disposition of such property or of the time at or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Mortgagor, as the same is provided for the mailing of notices herein, it shall constitute reasonable notice to Mortgagor.

(p) Other Remedies upon Default. Upon the occurrence of an Event of Default, Lender is authorized, either by itself or by its agent to be appointed by it for that purpose or by a receiver appointed by a court of competent jurisdiction, to:

(i) enter into and upon and take and hold possession of any portion or all of the Mortgaged Property, both real and personal, and exclude Mortgagor and all other persons therefrom;

(ii) operate and manage the Mortgaged Property and rent and lease the same;

(iii) perform such reasonable acts of repair or protection as may be reasonably necessary or proper to conserve the value of the Mortgaged Property; and

(iv) collect any Rents and Accounts for the benefit and protection of Lender and from time to time apply or accumulate such Rents and Accounts in such order and manner as Lender or a receiver, in its sole discretion, shall consider advisable, to or upon the following: the expenses of receivership, if any; the proper costs of upkeep,

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maintenance, repair and/or operation of the Mortgaged Property; the repayment of any sums theretofore or thereafter advanced pursuant to the terms of this Mortgage; the interest then due or next to become due upon the Indebtedness secured hereby; the taxes and assessments upon the Mortgaged Property then due or next to become due; or upon the unpaid principal of such Indebtedness.

The collection or receipt of Rents or Accounts by Lender, its agent or receiver, after notice of default and notice of sale shall not affect or impair such default or notices or any sale proceedings predicated thereon. Any Rents or Accounts in the possession of Lender, its agent or receiver, at the time of sale and not theretofore applied as herein provided, shall be applied in the same manner and for the same purposes as the proceeds of the sale. Lender shall not be under any obligation to make any of the payments or do any of the acts referred to in this Section, and to the extent permitted under applicable law, any of the actions referred to in this Section may be taken by Lender following an Event of Default regardless of whether any notice of default or notice of sale has been given hereunder and without regard to the adequacy of the security for the Indebtedness.

(q) Effect of Foreclosure on Leases. Lender shall have the right, at its option, to foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any tenants a party defendant to any foreclosure proceeding will not be asserted by the Mortgagor as a defense in any action or suit instituted to collect the Indebtedness or any deficiency remaining after foreclosure. Any such tenant whom Lender elects to not make a party or subject to any foreclosure action shall continue in possession of its leasehold for the unexpired term of its lease and shall attorn to Lender or other purchaser at the sale.

(r) Compliance with Indiana Mortgage Foreclosure Law. Without limiting the generality or efficacy of this Section 8 or any other provision of this Mortgage benefiting Lender, Mortgagor and Lender intend and believe that each provision in this Mortgage comports with any laws, rules or regulation governing the foreclosure of mortgage liens in Indiana. If, however, any provision in this Mortgage or any other Loan Document shall be inconsistent with and unenforceable under any provision of the laws, rules or regulations governing the foreclosure of mortgage liens in Indiana, the provisions of the laws, rules or regulations governing the foreclosure of mortgage liens in Indiana shall take precedence over the provisions of this Mortgage or any other Loan Document, but shall not limit, waive, invalidate or render unenforceable any other provision of this Mortgage or any other Loan Document that can be construed in a manner consistent with the laws, rules or regulations governing the foreclosure of mortgage liens in Indiana. Furthermore, if any provision of this Mortgage or any other Loan Document shall grant to Lender any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Lender or in mortgagees generally under the laws, rules or regulations governing the foreclosure of mortgage liens in Indiana in the absence of said provision, Lender shall be vested with the rights granted by the laws, rules or regulations governing the foreclosure of mortgage liens in Indiana to the fullest extent permitted by law.

9. **REMEDIES CUMULATIVE.** Each right and remedy provided in this Mortgage is distinct from all other rights or remedies under this Mortgage or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

10. **FORBEARANCE.**

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(a) Lender may agree with Mortgagor, from time to time, at Lender's option and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of any guarantors of the Loan or other third party obligor: extend the time for payment of all or any part of the Indebtedness, reduce the payments due under this Mortgage, the Note, or any other Loan Document, release anyone liable for the payment of any amounts under this Mortgage, the Note, or any other Loan Document, accept a renewal of the Note, modify the terms and time of payment of the Indebtedness, join in any extension or subordination agreement, release any Mortgaged Property, take or release other or additional security, modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable under the Note, or otherwise modify this Mortgage, the Note, or any other Loan Document.

(b) Any forbearance by Lender in exercising any right or remedy under the Note, this Mortgage, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of all or any part of the Indebtedness after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments on account of the Indebtedness or to exercise any remedies for any failure to make prompt payment. Enforcement by Lender of any security for the Indebtedness shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right available to Lender. Lender's receipt of any insurance and/or condemnation proceeds shall not operate to cure or waive any Event of Default unless such payment has completely cured the Event of Default and Lender is satisfied in its sole discretion that it has sufficient security for the remaining Loan Obligations.

11. **WAIVER OF STATUTE OF LIMITATIONS.** Mortgagor hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Mortgage or to any action brought to enforce any Loan Document.

12. **WAIVER OF MARSHALLING.** Notwithstanding the existence of any other security interests in the Mortgaged Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Mortgage, the Note, any other Loan Document or applicable law. Subject to applicable law, Lender shall have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of such remedies. Mortgagor and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Mortgage waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Mortgage.

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

14. **HAZARDOUS SUBSTANCES INDEMNIFICATION.** This Mortgage also secures the performance of all obligations due to Lender by Mortgagor and the other above named parties under that certain Hazardous Substances Indemnification and Warranty Agreement of even date herewith executed by Mortgagor and others for the benefit of Lender. A release of this Mortgage shall not be construed as or be deemed to constitute a termination or a waiver or release of such Hazardous

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Substances Indemnification and Warranty Agreement, which instead shall continue in existence and terminate by its own terms.

15. **ASSIGNMENT OF LEASES AND RENTS.** The terms and provisions of that certain separate Assignment of Leases and Rents executed by Mortgagor in favor of Lender of even date herewith are hereby incorporated by reference herein and made a part hereof as if fully set forth herein.

16. **EXPENSES AND PREPAYMENT PREMIUMS.** Immediately upon the conclusion of any legal proceedings in which Lender prevails, there shall become due and owing by Mortgagor all expenses incident to such proceedings, all court costs and all expenses incident to any foreclosure proceedings brought under this Mortgage or otherwise in connection with such proceeding (including without limitation auctioneer's fees), plus interest thereon at the Default Rate from the time incurred. In partial consideration for Lender agreeing to make the Loan to Mortgagor, Mortgagor agrees that upon the occurrence of an Event of Default and acceleration of the Indebtedness secured hereby, any tender of payment by or on behalf of Mortgagor of the amount necessary to satisfy all of such Indebtedness made at any time before, or after any foreclosure sale shall constitute an evasion of the payment terms of the Note and hereunder, and shall be deemed to be a voluntary prepayment, and, to the extent permitted by law, and Lender shall not be obligated to accept any such tender of payment.

17. **ACCELERATION INTEREST.** Upon any acceleration of the Indebtedness pursuant to the terms of the Note, Mortgagor shall pay interest on all sums due hereunder at the Default Rate following the occurrence giving rise to the Event of Default.

18. **LATE FEES.** If any payment of interest or principal payable under the Note is not made within five (5) calendar days after the date on which such payment becomes due and payable, Mortgagor shall thereupon automatically become obligated immediately to pay to Holder a late payment charge, for each month during which a payment delinquency exists, equal to the lesser of five percent (5%) of the amount of such payment or the maximum amount permitted by applicable law to defray the expenses incurred by Holder in handling and processing such delinquent payment and to compensate Holder for the loss of use of such delinquent payment. The foregoing shall not apply to the principal payment due on the Maturity Date.

19. **FUTURE ADVANCES.** It is further covenanted and agreed by the parties hereto that this Mortgage also secures the payment of and includes all future or further advances as may be made by Lender herein or its successors or assigns, at the request of or for the benefit of Mortgagor, its heirs, personal representatives, successors or assigns, within ten (10) years' from the date hereof or the maximum period allowed in the State of Indiana, whichever is the lesser, to the same extent as if such future advances were made on the date of the execution of this Mortgage, and also secures all future modifications, extensions, and renewals of any indebtedness or obligations secured by this Mortgage. The total amount of principal indebtedness that may be secured by this Mortgage at any one time shall not exceed a maximum principal sum of \$5,800,000.00 (which is equal to twice the face amount of the Note), together with interest thereon and any and all disbursements made by Lender for the payment of taxes, levies or insurance on the property covered by the lien of this Mortgage with interest on such disbursements at the rate specified in the Note and for reasonable attorneys' fees and court costs incurred in the collection of any or all of such sums of money. Pursuant to Ind. Code § 32-29-1-10, the lien of this Mortgage with respect to any future advances, modifications, extensions, and renewals shall have the same priority to which this Mortgage otherwise would be entitled without regard to the fact that any such future advance, modification, extension, or renewal may occur after this Mortgage is executed. Any such future advance shall be made in the sole discretion of Lender.

20. **RECORDATION.**

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(a) Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter from time to time, will cause this Mortgage, and any security instrument creating a lien or evidencing the lien hereof upon the UCC Property and each instrument of further assurance, to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of Lender in, the Mortgaged Property.

(b) Mortgagor shall pay all filing, registration or recording fees, and all expenses incident to the preparation, execution and acknowledgment of this Mortgage, any mortgage or other security instrument supplemental hereto, any security instrument with respect to the UCC Property encumbered hereby and any instrument of further assurance and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note, this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the chattels or any instrument of further assurance.

21. **GOVERNING LAW.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Indiana without regard to principles of conflicts of laws. Mortgagor agrees that its assets shall be used first to satisfy all claims of creditors organized or domiciled in the United States and that no assets of Mortgagor in the United States shall be considered part of any foreign bankruptcy estate.

22. **NOTICES.** Any notice or other communication required or permitted to be given in connection with this Mortgage shall be given in accordance with Section 17 of the Loan Agreement.

23. **INDEMNIFICATION.** MORTGAGOR SHALL PROTECT, DEFEND, INDEMNIFY AND SAVE HARMLESS LENDER FROM AND AGAINST ALL LIABILITIES, OBLIGATIONS, CLAIMS, DAMAGES, PENALTIES, CAUSES OF ACTION, COSTS AND EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND EXPENSES) IMPOSED UPON OR INCURRED BY OR ASSERTED AGAINST LENDER (EXCEPT IF ARISING AFTER LENDER TAKES POSSESSION OF THE MORTGAGED PROPERTY) BY REASON OF (A) OWNERSHIP OF THIS MORTGAGE, THE MORTGAGED PROPERTY OR ANY INTEREST THEREIN OR RECEIPT OF ANY RENTS; (B) ANY ACCIDENT, INJURY TO OR DEATH OF PERSONS OR LOSS OF OR DAMAGE TO PROPERTY OCCURRING IN, ON OR ABOUT THE MORTGAGED PROPERTY OR ANY PART THEREOF OR ON THE ADJOINING SIDEWALKS, CURBS, ADJACENT PROPERTY OR ADJACENT PARKING AREAS, STREETS OR WAYS; (C) ANY USE, NONUSE OR CONDITION IN, ON OR ABOUT THE MORTGAGED PROPERTY OR ANY PART THEREOF OR ON THE ADJOINING SIDEWALKS, CURBS, ADJACENT PROPERTY OR ADJACENT PARKING AREAS, STREETS OR WAYS; (D) ANY FAILURE ON THE PART OF MORTGAGOR, AFTER EXPIRATION OF APPLICABLE GRACE PERIODS, TO PERFORM OR COMPLY WITH ANY OF THE TERMS OF THIS MORTGAGE OR THE LOAN DOCUMENTS; (E) ANY CLAIMS BY ANY BROKER, PERSON OR ENTITY CLAIMING TO HAVE PARTICIPATED IN ARRANGING THE MAKING OF THE LOAN EVIDENCED BY THE NOTE; (F) PERFORMANCE OF ANY LABOR OR SERVICES OR THE FURNISHING OF ANY MATERIALS OR OTHER PROPERTY IN RESPECT OF THE MORTGAGED PROPERTY OR ANY PART THEREOF; OR (G) THE FAILURE OF ANY PERSON TO FILE TIMELY WITH THE INTERNAL REVENUE SERVICE AN ACCURATE FORM 1099-B, STATEMENT FOR RECIPIENTS OF PROCEEDS FROM REAL ESTATE, BROKER AND BARTER EXCHANGE TRANSACTIONS, WHICH MAY BE REQUIRED IN CONNECTION WITH THIS MORTGAGE, OR TO SUPPLY A COPY THEREOF IN A TIMELY FASHION TO THE RECIPIENT OF THE PROCEEDS OF THE TRANSACTION IN CONNECTION WITH WHICH THIS MORTGAGE IS MADE. ANY AMOUNTS PAYABLE TO LENDER BY REASON OF THE

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APPLICATION OF THIS SECTION 23, SHALL BECOME IMMEDIATELY DUE AND PAYABLE AND SHALL BEAR INTEREST AT THE DEFAULT RATE PROVIDED FOR IN THE NOTE FROM THE DATE OF DEMAND THEREFOR UNTIL PAID. THE OBLIGATIONS AND LIABILITIES OF MORTGAGOR UNDER THIS SECTION 23 SHALL SURVIVE ANY TERMINATION, SATISFACTION, ASSIGNMENT, ENTRY OF A JUDGMENT OF FORECLOSURE OR DELIVERY OF A DEED IN LIEU OF FORECLOSURE OF THIS MORTGAGE. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, SUCH INDEMNIFICATION HEREUNDER SHALL NOT BE AVAILABLE TO THE EXTENT THAT SUCH LIABILITIES, OBLIGATIONS, CLAIMS, DAMAGES, PENALTIES, COURSES OF ACTION, COSTS OR EXPENSES ARE DETERMINED BY A COURT OF COMPETENT JURISDICTION IN A FINAL, NON-APPEALABLE DECISION TO HAVE RESULTED FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LENDER.

24. **JOINT AND SEVERAL LIABILITY.** If more than one Person signs this Mortgage as mortgagor or Mortgagee, the obligations of such persons and entities shall be joint and several. The term "Mortgagor" shall include all such Persons. Each representation, covenant, undertaking and other obligation of Mortgagee shall apply to all such Persons individually and collectively.

25. **RELATIONSHIP OF PARTIES; NO THIRD PARTY BENEFICIARIES.** The relationship between Lender and Mortgagee shall be solely that of creditor and debtors, respectively, and nothing contained in this Mortgage shall create any other relationship between Lender and Mortgagee. No creditor of any party to this Mortgage and no other Person shall be a third party beneficiary of this Mortgage or any other Loan Document.

26. **SEVERABILITY; AMENDMENTS.** The invalidity or unenforceability of any provision of this Mortgage shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect.

27. **ENTIRE AGREEMENT.** This Mortgage contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Mortgage.

28. **AMENDMENT.** This Mortgage may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

29. **ATTORNEYS' FEES.** Notwithstanding anything to the contrary herein or in any other Loan Document, should Lender retain counsel for the purpose of enforcing or preventing the breach of any provision hereof, including but not limited to instituting or defending any action or proceeding to enforce any provision hereof, Mortgagee agrees to pay all charges owed to Lender pursuant to the Loan Documents (including, without limitation, all reasonable attorneys' fees, consultants' fees, experts' fees and the like) in connection with the collection and/or enforcement of the Loan Documents, whether or not suit is brought against Mortgagee.

30. **WAIVER OF TRIAL BY JURY.** EACH OF MORTGAGOR AND LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE THAT IS TRIABLE OF RIGHT BY A JURY; AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE EXIST. MORTGAGOR AND LENDER ARE AUTHORIZED TO SUBMIT THIS MORTGAGE TO ANY

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COURT HAVING JURISDICTION OVER THE SUBJECT MATTER AND THE PARTIES TO ANY LOAN DOCUMENT, SO AS TO SERVE AS CONCLUSIVE EVIDENCE OF MORTGAGOR'S AND LENDER'S WAIVER OF THE RIGHT TO JURY TRIAL. FURTHER, MORTGAGOR AND LENDER EACH CERTIFIES THAT NEITHER MORTGAGOR'S NOR LENDER'S REPRESENTATIVES OR AGENTS HAVE REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ENFORCEMENT OF THIS WAIVER WILL NOT BE SOUGHT.

31. **WAIVER OF AUTOMATIC STAY.** TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, MORTGAGOR HEREBY AGREES THAT, IN CONSIDERATION OF LENDER'S AGREEMENT TO MAKE THE LOAN AND IN RECOGNITION THAT THE FOLLOWING COVENANT IS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN, IN THE EVENT THAT MORTGAGOR SHALL (I) FILE WITH ANY BANKRUPTCY COURT OF COMPETENT JURISDICTION OR BE THE SUBJECT OF ANY PETITION UNDER ANY SECTION OR CHAPTER OF TITLE 11 OF THE UNITED STATES CODE, AS AMENDED ("BANKRUPTCY CODE"), OR SIMILAR LAW OR STATUTE; (II) BE THE SUBJECT OF ANY ORDER FOR RELIEF ISSUED UNDER THE BANKRUPTCY CODE OR SIMILAR LAW OR STATUTE; (III) FILE OR BE THE SUBJECT OF ANY PETITION SEEKING ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY, OR OTHER RELIEF FOR DEBTORS; (IV) HAVE SOUGHT OR CONSENTED TO OR ACQUIRED IN THE APPOINTMENT OF ANY TRUSTEE, RECEIVER, CONSERVATOR, OR LIQUIDATOR; OR (V) BE THE SUBJECT OF AN ORDER, JUDGMENT OR DECREE ENTERED BY ANY COURT OF COMPETENT JURISDICTION APPROVING A PETITION FILED AGAINST MORTGAGOR FOR ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY OR RELIEF FOR DEBTORS, THEN, SUBJECT TO COURT APPROVAL, LENDER SHALL THEREUPON BE ENTITLED AND MORTGAGOR HEREBY IRREVOCABLY CONSENTS TO, AND WILL NOT CONTEST, AND AGREES TO STIPULATE TO, RELIEF FROM ANY AUTOMATIC STAY OR OTHER INJUNCTION IMPOSED BY SECTION 362 OF THE BANKRUPTCY CODE, OR SIMILAR LAW OR STATUTE (INCLUDING, WITHOUT LIMITATION, RELIEF FROM ANY EXCLUSIVE PERIOD SET FORTH IN SECTION 1121 OF THE BANKRUPTCY CODE) OR OTHERWISE, ON OR AGAINST THE EXERCISE OF THE RIGHTS AND REMEDIES OTHERWISE AVAILABLE TO LENDER AS PROVIDED IN THE LOAN DOCUMENTS, AND AS OTHERWISE PROVIDED BY LAW, AND MORTGAGOR HEREBY IRREVOCABLY WAIVES ITS RIGHTS TO OBJECT TO SUCH RELIEF.

32. **SUCCESSORS AND ASSIGNS BOUND.** This Mortgage shall bind, and the rights granted by this Mortgage shall inure to, the respective permitted successors and assigns of Lender and Mortgagor.

33. **LOAN AGREEMENT GOVERNS.** The Loan is governed by the terms and conditions set forth in the Loan Agreement, and in the event of any conflict between the terms of this Mortgage or the other Loan Documents and the terms of the Loan Agreement, the terms of the Loan Agreement shall control (except in the case where the terms and conditions set forth in the Loan Agreement are inconsistent with Indiana law, and those set forth in this Mortgage are consistent with Indiana law); provided, however, in the event there is any apparent conflict between any particular term or provision which appears in both the Loan Agreement and this Mortgage and it is possible and reasonable for the terms of both the Loan Agreement and this Mortgage to be performed or complied with, then, notwithstanding the foregoing, both the terms of the Loan Agreement and this Mortgage shall be

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performed or complied with. Any initially capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement.

34. **MISCELLANEOUS.** The captions and headings of the sections of this Mortgage are for convenience only and shall be disregarded in construing this Mortgage. Any reference in this Mortgage to an "Exhibit" or a "Section" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Mortgage or to a section of this Mortgage. All exhibits or schedules attached to or referred to in this Mortgage are incorporated by reference into this Mortgage. Any reference in this Mortgage to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Mortgage includes the plural and use of the plural includes the singular. As used in this Mortgage, the term "including" means "including, but not limited to."

35. **CONSENT TO APPOINTMENT OF RECEIVER.** Mortgagor hereby agrees that Lender shall be entitled to the appointment of a receiver as a matter of right in accordance with Ind. Code § 32-30-5-1(b)(4)(C) in any action by Lender seeking to enforce Mortgage, including without limitation, by judicial foreclosure.

36. **HAZARD INSURANCE.** Anything contained in this Mortgage or other Loan Documents to the contrary notwithstanding, Lender or its assignee or representative may not require Mortgagor, as a condition of receiving or maintaining this Mortgage, to obtain hazard insurance coverage against risks to the Improvements on the Mortgaged Property in an amount exceeding the replacement value of the Improvements in violation of applicable law.

37. **FORECLOSURE PROCEEDS.** The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied pursuant to this Mortgage and the Loan Agreement, to the extent permitted by applicable law.

38. **PURPOSES AND PROCEEDS.** Mortgagor acknowledges, represents and agrees that the Loan and all other Indebtedness are being obtained for business or commercial purposes and the proceeds thereof are not to be used for personal, family, residential, household, or agricultural purposes. Mortgagor further acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate or residential real estate within the purview and operation of Ind. Code § 32-30-10.5.

39. **CONSOLIDATION OF ACTIONS.** If Lender brings an action in the State of Indiana to recover judgment under any of the other Loan Documents and during the pendency of such action brings a separate action in the State of Indiana under this Mortgage, such actions shall be consolidated if and to the extent required pursuant to Ind. Code § 32-30-10-10.

40. **UNENFORCEABLE JUDGMENTS OR DECREES.** The Loan Obligations and Indebtedness secured hereby shall not include any judgment(s) or final decree(s) rendered in another jurisdiction that would be unenforceable by an Indiana court pursuant to Ind. Code § 34-54-3-4.

41. **NO WAIVER OF DEFICIENCY.** Nothing in this Mortgage, the Loan Agreement, or the other Loan Documents is intended to constitute a waiver of deficiency under Ind. Code § 32-29-7-5 nor a consent by Lender to such a waiver. Nothing in this Mortgage, the Loan Agreement, or the other Loan Documents shall be deemed to be (i) a waiver by Mortgagor of the time limitations on issuance of process set out in Ind. Code § 32-29-7-3 or (ii) consideration for or be deemed to be a waiver of or release by Lender or any secured party or any judgment holder of the Indebtedness or other Loan Obligations as provided in Ind. Code § 32-29-7-5 of the right to seek a deficiency judgment against Mortgagor or any



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other person or entity who may be personally liable for the Indebtedness or other Loan Obligations, which right to seek a deficiency judgment is hereby reserved, preserved, and retained by Lender for its own behalf and its successors and assigns.

42. **RELEASE.** Upon payment in full of all sums due under the Note, this Mortgage, and any other Loan Documents secured by this Mortgage, Lender shall, upon the request of, and at the cost of, Mortgagor, execute a proper release of this Mortgage and record the release with the Office of the Recorder of Lake County, Indiana.

43. **COSTS AND EXPENSES.** In any suit to foreclose the lien hereof or enforce any other remedy of Lender under this Mortgage with respect to the Mortgaged Property, there shall be allowed and included as additional indebtedness secured hereby in the decree for sale or other judgment or decree all out-of-pocket expenditures and expenses which may be paid or incurred by or on behalf of Lender for reasonable attorneys' fees and costs, survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Lender with respect to environmental matters (including but not limited to environmental testing, audits, reviews, inspections, remediation, and clean-up), amounts expended in litigation preparation, computerized research, outlays for documentary and expert evidence, stenographer's charges, publication costs, and out-of-pocket costs including but not limited to telephone and telefax expenses, mileage, depositions, postage, photocopies, process service, videotapes and the like (which may be estimated as to items to be expended after entry of the decree) and the costs of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Lender may deem reasonably necessary in connection with such foreclosure or enforcement of such other remedies or to evidence to bidders at any foreclosure sale the true condition of the title to, the value of or the environmental condition of the Mortgaged Property. The phrases "attorneys' fees", "legal fees" and "counsel fees" when used herein or in the Loan Agreement or the other Loan Documents shall include any and all attorneys', paralegals', law clerks', and support staffs' fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Mortgaged Property or any part thereof and enforcing its rights hereunder.

[continued on following page]



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**This Instrument Prepared by (under supervision of an attorney licensed in Indiana) and  
After Recording Mail To:**

Daniel J. Ferretti, Esq.

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

1301 McKinney St., Suite 3700

Houston, Texas 77010

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Daniel J. Ferretti, Esq.

Property of Lake County Recorder

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EXHIBIT A  
TO  
MORTGAGE, SECURITY AGREEMENT, AND FIXTURE FILING

Description of the Land

**PARCEL 1:** (45-09-30-127-001.000-018)

THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2ND PRINCIPAL MERIDIAN, IN THE CITY OF HOBART, LAKE COUNTY, INDIANA, EXCEPT THE EAST 120 FEET OF THE SOUTH 180 FEET THEREOF. FURTHER EXCEPTING THEREFROM A PORTION DEEDED TO THE CITY OF HOBART MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 7 WEST OF LAKE COUNTY, INDIANA, AND BEING A PART OF THE LAND OF INSTRUMENT NUMBER 99089601. COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER SECTION, DESIGNATED AS POINT "131" ON SAID PLAT; THENCE NORTH 89 DEGREES 00 MINUTES 02 SECONDS WEST (ASSUMED BEARING) 100.419 METERS (329.46 FEET) ALONG THE NORTH LINE OF SAID SECTION TO THE POINT OF BEGINNING OF THIS DESCRIPTION BEING THE NORTHEAST CORNER OF SAID HALF-QUARTER-QUARTER-QUARTER; THENCE SOUTH 1 DEGREES 00 MINUTES 24 SECONDS EAST 32.020 METERS (105.05 FEET) ALONG THE EAST LINE OF SAID HALF-QUARTER-QUARTER-QUARTER; THENCE NORTH 89 DEGREES 00 MINUTES 02 SECONDS WEST 4.854 METERS (15.92 FEET) TO A POINT DESIGNATED AS "10293" ON SAID PLAT; THENCE NORTH 20 DEGREES 02 MINUTES 17 SECONDS WEST 13.928 METERS (45.70 FEET) TO A POINT DESIGNATED AS "10292" ON SAID PLAT; THENCE NORTH 89 DEGREES 00 MINUTES 02 SECONDS WEST 18.000 METERS (59.06 FEET) TO A POINT DESIGNATED AS "10291" ON SAID PLAT; THENCE NORTH 0 DEGREES 59 MINUTES 58 SECONDS EAST 4.500 METERS (14.76 FEET) TO A POINT DESIGNATED AS "43900" ON SAID PLAT; THENCE NORTH 89 DEGREES 00 MINUTES 02 SECONDS WEST 73.165 METERS (240.04 FEET) TO THE WEST LINE OF SAID HALF-QUARTER-QUARTER-QUARTER; THENCE NORTH 1 DEGREE 03 MINUTES 47 SECONDS WEST 14.509 METERS (47.60 FEET) ALONG THE WEST LINE OF SAID HALF-QUARTER-QUARTER-QUARTER TO THE NORTH LINE OF SAID SECTION BEING THE NORTHWEST CORNER OF SAID HALF-QUARTER-QUARTER-QUARTER; THENCE SOUTH 89 DEGREES 00 MINUTES 02 SECONDS EAST 100.419 METERS (329.46 FEET) ALONG THE NORTH LINE OF SAID SECTION TO THE POINT OF BEGINNING.

**PARCEL 2:** (45-08-32-176-001.000-001)

THE NORTH HALF OF THE WEST HALF OF THE WEST HALF OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 8 WEST OF SECOND PRINCIPAL MERIDIAN IN LAKE COUNTY INDIANA.

**PARCEL 3:** (45-08-32-176-003.000-001)

THE SOUTH HALF OF THE WEST HALF OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 8 WEST OF SECOND PRINCIPAL MERIDIAN IN LAKE COUNTY INDIANA.

**PARCEL 4:** (45-08-32-176-004.000-001)

THE WEST HALF OF THE EAST HALF OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 8 WEST OF THE 2ND P.M., IN LAKE COUNTY INDIANA.

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EXHIBIT B  
TO  
MORTGAGE, SECURITY AGREEMENT, AND FIXTURE FILING

List of Mobile Homes

| Parcel ID       | Year | VIN               | Make              | Dimension |
|-----------------|------|-------------------|-------------------|-----------|
| 45-918-21604-40 | 1987 | 1C110201J1001375  | PARKVIEW          | 14x66     |
| 45-918-21500-20 | 1990 | MY9075422K        | STRAFFORD         | 14x76     |
| 45-918-20801-20 | 1991 | NP31812A          | CMR               | 14x60     |
| 45-918-90302-90 | 1981 | 187149            | SCHULTZ           | 14x60     |
| 45-918-21301-30 | 2000 | MY00111495K       | KINGSLEY          | 16x80     |
| 45-918-21300-50 | 1998 | 95421014K         | SKYLINE           | 16x80     |
| 45-918-21400-00 | 1991 | M250476           | SCHULTZ           | 14x70     |
| 45-918-21300-30 | 1987 | M236128           | SCHULTZ           | 14x72     |
| 45-918-21300-60 | 1983 | ZD110316          | DUKE              | 14x68     |
| 45-918-21201-00 | 1982 | O9330279R         | SKYLINE           | 14x62     |
| 45-918-21000-20 | 1990 | M249541           | SCHULTZ           | 14x70     |
| 45-918-21400-50 | 1994 | 112B3118          | REDMAN            | 16x72     |
| 45-918-21100-80 | 1974 | 6020743           | HOLLY PARK        | 14x70     |
| 45-918-21604-50 | 2005 | 1HP05687          | HOLLY PARK        | 14x56     |
| 45-918-21300-20 | 2003 | PAT26569IN        | PATRIOT           | 14x42     |
| 45-918-21201-20 | 1995 | IEH4J332353300439 | BRITTNEY          | 12x36     |
| 45-918-21300-70 | 1987 | 36421481W         | CAROLLTON         | 14x70     |
| 45-918-90308-30 | 1969 | 732911715         | HORIZON           | 12x55     |
| 45-918-90303-30 | 1973 | F11724650860      | LDO               | 14x61     |
| 45-918-21000-30 | 1997 | MY97101717K       | FAIRMONT          | 16x72     |
| 45-918-21400-20 | 2000 | 9P420927M         | SKYLINE           | 14x60     |
| 45-918-21500-30 | 1998 | MY98105651K       | Signature Limited | 16x68     |
| 45-918-21101-10 | 1995 | 150R3520XS2014273 | GRAND CHALET      | 12x35     |
| 45-918-90302-70 | 1963 | 610623            | EXPRESSION        | 15x45     |
| 45-918-21201-30 | 1991 | 11238183          | BREEZEWOOD        | 14x52     |
| 45-918-21400-30 | 1999 | INFLW55A73761BM13 | FLEETWOOD         | 14x66     |
| 45-918-21201-40 | 1985 | 010P14750         | HOLLY PARK        | 14x55     |
| 45-918-20801-40 | 1980 | N027766X          | HPH               | 14x56     |
| 45-918-21201-50 | 1985 | N06209K           | KINGSLEY          | 14x65     |
| 45-918-21201-60 | 1996 | 11251854          | MIRAGE            | 14x52     |
| 45-918-21201-70 | 1988 | LPP1999           | PARKLANE          | 14x66     |
| 45-918-90298-30 | 1970 | 60X12X573         | OXFORD            | 12x60     |
| 45-918-20100-50 | 1977 | 28213685          | MMY               | 12x60     |
| 45-918-00027-00 | 2018 | 41089             | MANSSION          | 14x56     |

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|                 |      |                 |               |       |
|-----------------|------|-----------------|---------------|-------|
| 45-918-21000-40 | 1993 | NR33142A        | COMMANCHE     | 14x70 |
| 45-918-21500-40 | 2005 | 63380458T       | SKYLINE       | 14x48 |
| 45-918-20801-00 | 1994 | MO242811        | MANSION       | 14x70 |
| 45-918-21400-40 | 1997 | WS300017        | FORTUNE       | 16x80 |
| 45-918-21300-40 | 1994 | 1NFLR76A07676AT | FLEETWOOD     | 14x65 |
| 45-918-21201-10 | 1995 | 11249126        | REDMAN        | 14x52 |
| 45-918-20801-10 | 1999 | 02691N          | FORTUNE       | 14x52 |
| 45-918-21201-80 | 1997 | OIL33726        | Liberty       | 12x36 |
|                 | 1997 |                 | Redman        |       |
| 45-901-99814-60 | 1988 | 13310875X       | Skyline       | 14x60 |
| 45-901-99814-50 | 2004 | 1HP04504        | HOLLY PARK    | 14x60 |
| 45-901-00008-00 | 1990 | SN4766          | Shamrock      | 14x52 |
| 45-901-00017-00 | 1989 | 112M5301        | Redamn        | 16x76 |
| 45-901-90014-70 | 1968 | 605640          | HOLLY PARK    | 12x56 |
| 45-901-99815-10 | 1992 | NQ32228A        | Commodore     | 14x50 |
| 45-901-99815-20 | 1992 | MY9283892       | Fairmont      | 14x60 |
| 45-901-00001-00 | 1996 | 11252148        | Redman        | 14x56 |
| 45-901-00009-00 | 2002 | MY02119147      | Fairmont      | 14x56 |
| 45-901-90020-50 | 1979 | 52934610905     | Elcona        | 14x60 |
| 45-901-99801-30 | 1980 | 0533257N        | Academy       | 12x64 |
| 45-901-00006-00 | 1997 | 10319D          | Duchess       | 16x65 |
| 45-901-99780-60 | 1975 | 2022825         | Memory        | 14x60 |
| 45-901-90002-90 | 1986 | 11229689        | Redman        | 14x60 |
| 45-901-90008-50 | 1976 | 61639           | Liberty       | 12x60 |
| 45-901-99814-80 | 1983 | 1690            | Rochester     | 14x65 |
| 45-901-99812-30 | 1988 | NM28640A        | Commodore     | 14x60 |
| 45-901-90008-90 | 1979 | AD882ID         | ADH           | 14x60 |
| 45-901-99785-70 | 1983 | 7364            | Revere        | 14x65 |
| 45-901-90009-10 | 1977 | AA0040A         | Bendix        | 14x65 |
| 45-901-00010-00 | 1985 | 22310281U       | SKYLINE       | 14x70 |
| 45-901-00011-00 | 2005 | 1HP6400         | HOLLY PARK    | 14x60 |
| 45-901-00003-00 | 1984 | 010P11860       | OVERLAND PARK | 14x60 |
| 45-901-90004-70 | 1970 | 4582            | PARK ESTATE   | 12x60 |
| 45-901-90003-30 | 1978 | LIOL12019       | LIBERTY       | 14x60 |
| 45-901-90019-40 | 1972 | 6015934         | HOLLY PARK    | 12x57 |
| 45-901-90005-90 | 1967 | 601231210       | FAWN          | 12x60 |
| 45-901-00007-00 | 1994 | MY9489101       | FAIRMONT      | 14x66 |
| 45-901-00016-00 | 1996 | 8M310155S       | SKYLINE       | 14x56 |
| 45-901-90019-50 | 1973 | 601220533876G   | Academy       | 12x60 |
| 45-901-90004-90 | 1971 | 50121RH6536F    | REBEL         | 12x55 |
| 45-901-90019-30 | 1973 | 0673MH168       | COUNTRYVIEW   | 12x65 |

# NOT AN OFFICIAL DOCUMENT

|                 |      |              |            |       |
|-----------------|------|--------------|------------|-------|
| 45-901-90015-50 | 1970 | 6011646      | HOLLY PARK | 12x60 |
| 45-901-90004-10 | 1977 | 04320283K    | BUDDY      | 12x64 |
| 45-901-90003-70 | 1977 | 1113151D     | ROSEMONT   | 14x70 |
| 45-901-00019-00 | 1996 | 11252424     | RED HUDSON | 14x56 |
| 45-901-00012-00 | 1985 | 4324429      | STERLING   | 24x44 |
| 45-901-00014-00 | 1992 | 15236        | PATRIOT    | 16x70 |
| 45-901-00020-00 | 1992 | 14999        | PTT        | 14x68 |
| 45-901-90003-10 | 1972 | 52122RH6888F | AGT        | 12x52 |
| 45-901-00002-00 | 1995 | NT36254A     | Commodore  | 16x70 |
| 45-901-99815-00 | 1976 | N09246       | BAYETTE    | 14x60 |

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