

## PROMISSORY NOTE

\$450,000.00

Boca Raton, Florida  
June 25, 2014

FOR VALUE RECEIVED, the undersigned RECHTER HOLDINGS, INC., a Florida Corporation ("Maker" and/or "Borrower") promises to pay to the order of LANDMARK BANK, N.A. or any subsequent holder of this Note ("Lender" and/or "Holder"), 6300 N.E. 1<sup>st</sup> Avenue, Suite 300, Fort Lauderdale, Florida 33334, the sum of Four Hundred Fifty Thousand and No/100 Dollars (\$450,000.00), with interest on the principal balance which is from time to time outstanding from the date hereof at the rate of interest set forth herein and payable as follows:

a. Use of Loan Proceeds. One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) of the principal (the "Undisbursed Proceeds") shall be withheld by the Lender to be funded and disbursed to the Borrower upon receipt by Lender, by no later than eighteen (18) months from the date of this Note, of executed Leases, satisfactory to the Lender, in its sole and absolute discretion, that collectively produce a minimum net operating income of Fifty Thousand and No/100 Dollars (\$50,000.00) per year for the real property that is collateral for repayment of this Note. The Undisbursed Proceeds will no longer be available to be disbursed to the Borrower if the minimum net operating income requirement has not been met by eighteen (18) months from the date hereof.

b. Prime Rate. For purposes hereof, "Prime Rate" means the fluctuating rate of interest per annum announced by The Wall Street Journal, Eastern Edition, as the prime lending rate in effect from time to time whether or not such rate shall be otherwise published. Such Prime Rate is established by Lender as an index or base rate and may or may not at any time be the best or lowest rate of interest offered by Lender. In the event that such rate becomes unavailable at any time, the Lender shall select a new index or other appropriate measure as a basis for setting the interest rate.

c. Interest. During the first twenty-four (24) months from the date hereof, the outstanding Loan principal balance shall bear interest at a variable rate per annum equal to the Prime Rate plus one percent (1.0%). The interest rate hereunder shall be adjusted daily in accordance with fluctuations in the Prime Rate. Thereafter, the outstanding Loan principal balance shall bear interest at a fixed rate of four and nine-tenths percent (4.9%) per annum for the remainder of the term of this Note. Interest shall be computed on the basis of a daily amount of interest accruing on the daily outstanding principal balance during a 360-day year multiplied by the actual number of days the principal is outstanding during such applicable interest period.

d. Payment of Principal and Interest. Commencing with the monthly payment due on July 25, 2014, payments of Interest only, accrued in accordance with the terms of this Note, shall be due and payable monthly, on the twenty-fifth (25<sup>th</sup>) day of each month immediately following the calendar month for which said interest has accrued, for twenty-four (24) consecutive months. Commencing with the payment due on July 25, 2016, Monthly payments of principal and interest in an amount necessary to amortize the outstanding principal balance over a period of twenty-five (25) years, shall be due and payable monthly, on the twenty-fifth (25<sup>th</sup>) day of each month, immediately following the calendar month for which said interest has accrued. All accrued but unpaid interest and principal shall be due and payable in full on the Maturity Date, as defined below. All payments of principal and interest shall be made in lawful currency of the United States of America which shall be legal tender in payment of all debts, public and private, at the time of payment. All payments hereunder shall first be applied to interest, then to principal.

e. Maturity Date. The then outstanding principal balance plus all accrued but unpaid interest

shall be due and payable on June 25, 2019.

f. Extension Option. Maker may extend the Maturity Date of this Note for an additional term of five (5) years (the "Extension Term") upon the following terms and conditions:

1. Maker shall notify the Lender, in writing, of its election to extend the Maturity Date no sooner than one hundred twenty (120) days and no later than ninety (90) days prior to the Maturity Date (the "Extension Election Notice"), which notice shall be delivered to Lender, in the manner in which notice is given in the Mortgage, as defined herein, which secures payment of this Promissory Note.

2. All of the Loan Documents, as such term is hereinafter defined, including, but not limited to, this Promissory Note and the Mortgage, have remained in good standing during the initial term of this Promissory Note and there is no existing uncured Event of Default or an existing condition which, by the passage of time, would constitute an Event of Default on the date the Extension Option Notice is received by the Lender.

3. There has been no material deterioration to the financial wherewithal of the Maker or the Guarantor (as defined in the Guaranty of Payment and Performance of even date herewith) as determined by the Lender in its sole and absolute discretion.

4. The real property collateral securing the loan represented by this Promissory Note shall maintain a Minimum Debt Service Coverage Ratio (the "Ratio") of not less than 1.40:1.0. The Ratio shall be based upon an interest rate equal to four and nine-tenths percent (4.9%) with a twenty-two (22) year amortization and utilizing an industry recognized formula acceptable to Lender in its sole and absolute discretion. Commencing on December 31, 2019, the Ratio shall be tested annually using the in place rent roll as of the last day of each calendar year for the remainder of the term of this Note.

5. During the Extension Term, commencing on June 25, 2019, the outstanding principal balance shall bear interest at a rate which is equal to the weekly average yield of the One Year Treasury Index, at the end of the preceding business day, plus 3.50%, rounded up to the nearest 1/8th of one percent, but never less than four and nine-tenths percent (4.9%) per annum. Thereafter, on the twenty-fifth (25<sup>th</sup>) day of July of each consecutive year (the "Anniversary Date"), the rate shall adjust annually to a rate which is equal to the weekly average yield of the One Year Treasury Index, at the end of the preceding business day, plus 3.50%, rounded up to the nearest 1/8th of one percent, but never less than four and nine-tenths percent (4.9%) per annum. Interest shall be computed on the basis of a daily amount of interest accruing on the daily outstanding principal balance during a 360-day year multiplied by the actual number of days the principal is outstanding during such applicable interest period.

6. In the event that the Maker obtains the extension, the entire outstanding principal balance together with all accrued and unpaid interest shall be due and payable on June 25, 2024 (the "Extended Maturity Date").

g. Real Estate Tax Escrow. Maker shall pay unto the Lender on or by the due date of each monthly payment of principal and interest due per the terms hereof, a sum equal to one-twelfth (1/12th) of the



annual amount necessary to pay all taxes and assessments against the real property which is the collateral for this Promissory Note (the "Real Property"), plus an amount equal to a two monthly payments cushion, said monthly sum to be estimated solely by the Lender and calculated to be an amount not less than the amount of taxes assessed against the Real Property for the previous year, which monthly payments shall be deposited in an account with Lender. Commencing with the payment due on July 25, 2014, the amount of the monthly escrow payments shall be \$482.29 per month.

Prepayment. This Note may be prepaid in whole or in part on any loan payment date. In the event that Maker makes a full or partial prepayment during the three (3) year period beginning with the date of this Note with funds obtained as a result of a refinance from a third party other than the Lender of the Property described in the Mortgage which is the collateral for repayment of the amounts due per the terms of this Note, Maker shall pay a prepayment charge as consideration for the Lender's acceptance of such prepayment equal to one percent (1.0%) of the amount prepaid, unless such prepayment charges are otherwise prohibited by applicable law or regulation. For purposes of this paragraph, a conveyance to a spouse, family member or other entity in which the Maker or any Obligor has any interest shall be considered a refinance. Provided, however, no charge shall be assessed or collected for a prepayment with funds received from the proceeds of a bona fide arms length sale of the Property or in the event of a refinance with Lender. Any partial prepayment shall not postpone the due date of any subsequent periodic installments or the Maturity Date, or change the amount of such installments due, unless Lender shall otherwise agree in writing.

Maker and/or Guarantor shall establish a meaningful relationship with Lender including opening and maintaining all of its primary depository accounts with Lender during the term of this Note and any extensions of said term.

Each Maker and endorser severally waives demand, protest and notice of maturity, non-payment or protest and all requirements necessary to hold each of them liable as makers and endorsers and consents without notice to any and all extensions of time or changes in terms of payment by the holder of this Note.

Each Maker, endorser and guarantor, jointly and severally agrees to pay all costs of collection, including reasonable attorneys' fees, in the event it becomes necessary to protect the security hereof, whether suit be brought or not.

The said principal sum or the unpaid balance thereof, with interest thereon, shall become due and payable, at the option of the Holder, after default in the payment of any monthly installment of interest or principal and interest for a period of fifteen (15) days, or after default in the performance of any of the covenants or conditions of the Mortgage (the "Mortgage") executed simultaneously herewith, which secures payment of this Promissory Note, within the time therein limited. Should the Maker fail to pay any installment due hereunder for a period of ten (10) days, the Maker shall pay a late charge in the amount of Five (5%) percent, but not less than \$5.00, on the installment of principal and interest so overdue. In the event that any payment due hereunder is dishonored for any reason, in addition to the amount of the payment dishonored, Borrower shall pay a processing fee to Lender in the amount of \$30.00, which fee shall be due and payable within five (5) days from receipt by the Borrower of notice from the Lender that the payment has been dishonored.

From and after the occurrence of an Event of Default, as such term is hereinafter defined, under this Promissory Note or the maturity thereof, whether normal maturity or accelerated maturity, the unpaid principal hereof shall bear interest at the highest legal rate permitted by Florida law.



This Promissory Note is secured by the Mortgage and is to be construed and enforced according to the laws of the State of Florida. Upon default in the payment of any of the terms and conditions of said Mortgage, and after the expiration of all applicable cure and grace periods, then, at the option of the Holder, the entire principal sum remaining unpaid, together with accrued interest, shall become immediately due and payable, without further notice.

The term "Loan Documents" shall mean any and all of the documents heretofore, now, or hereafter executed by Maker, by others or by Maker and others which wholly or partly secure or were, are, or will be executed in connection with the indebtedness evidenced by this Promissory Note, including, but not limited to, the Mortgage, Collateral Assignment of Leases, Rents and Licenses, Collateral Assignment of Contracts and Licenses, UCC-1 Financing Statements, and associated affidavits, disclosures and miscellaneous loan documentation.

The Borrower and any endorsers, sureties, guarantors, and all others who are, or who may become liable for the payment hereof, severally expressly grant to the Lender a continuing first lien security interest in and authorize and empower the Lender, at its sole discretion, at any time after the occurrence of an Event of Default as such term is hereinafter defined and provided all applicable notice, grace and/or cure periods shall have expired, to appropriate and in such order as Lender may elect, apply to the payment hereof or to the payment of any and all indebtedness, liabilities and obligations of such parties to the Lender or any of Lender's affiliates, whether now existing or hereafter created or arising or now owned, or howsoever after acquired by Lender or any of Lender's affiliates (whether such indebtedness, liabilities and obligations are or will be joint or several, direct or indirect, absolute or contingent, liquidated or unliquidated, matured or unmatured), any and all money, general or specific deposits, or collateral of any such parties now or hereafter in the possession of the Lender.

Borrower, and any endorsers, sureties, guarantors and all others who are, or who may become liable for the payment hereof, severally, irrevocably, and unconditionally (a) agree that any suit, action, or other legal proceeding arising out of or relating to this Note may be brought, at the option of the Lender, in a court of record of the State of Florida in Broward County, in the United States District Court for the Southern District of Florida, or in any other court of competent jurisdiction; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding; and (c) waive any objection which it or they may have to the laying of venue of any such suit, action, or proceeding in any such courts.

Upon the happening of any of the following events ("Event of Default"), each of which shall constitute a default hereunder, all sums due hereunder shall thereupon or thereafter, at Lender's option, without notice or demand, become immediately due and payable: (a) failure of any Obligor (which term shall mean and include each Maker, Endorser, Surety, Guarantor or other party liable for payment of or pledging collateral or security under this Note) to pay on or before expiration of any applicable grace period, any sum due hereunder or due by any Obligor to Lender under any other Promissory Note or under any security instrument or written obligation of any kind now existing or hereafter created; (b) occurrence of default under any of the Loan Documents or any other loan agreement or security instrument now or hereafter in effect which by its terms covers this Note or the indebtedness evidenced hereby; (c) filing of any petition under the Bankruptcy Code or any similar federal or state statute by or against any Obligor or the insolvency of any Obligor and not discharged and dismissed within 30 days from the filing thereof; (d) making of a general assignment by any Obligor for the benefit of creditors, appointment of or taking possession by a receiver, trustee or custodian or similar official for any Obligor or for any assets of any such Obligor or institution by or against any Obligor of any kind of insolvency proceedings or any proceeding for dissolution or liquidation of any Obligor which is not dismissed within thirty (30) days of the filing thereof; (e) entry of a final judgment against any Obligor which is not satisfied or transferred to bond within thirty (30) days of the date of entry or an appeal of such judgement



timely filed and, in such event, not satisfied within thirty (30) days after such appeal is dismissed or the date of the appellate court entering a judgement upholding the trial court judgement in whole or in part; (f) material falsity in any certificate, statement, representation, warranty or audit at any time furnished to Lender by or on behalf of any Obligor pursuant to or in connection with this Note, the Loan Documents or any loan agreement or Security Agreements now or hereafter in effect, which by its terms covers this Note for the indebtedness evidenced hereby or otherwise including any omission to disclose any substantial contingent or liquidated liabilities or any material adverse change in any facts disclosed by any certificate, statement, representation, warranty or audit furnished to Lender; (g) issuance of any writ of attachment or writ of garnishment or filing of any lien against any Collateral or the property of any Obligor which is not dismissed within thirty (30) days of the date of issuance or filing, whichever is applicable; (h) taking of possession of any material Collateral or of any substantial part of the property of any Obligor at the instance of any governmental authority; (i) dissolution, merger, consolidation, or reorganization of any Obligor; (j) assignment or sale by any Obligor of any equity in any collateral securing payment of this Note without the prior written consent of Lender; (k) cancellation of any guaranty with respect hereto without the prior written consent of Lender hereof; (l) the dissolution of the Maker or the death or dissolution of a guarantor of this Note; or (m) failure of the Maker and/or Guarantor to open and maintain its primary depository accounts with Lender during the term hereof.

Lender, shall have all of the rights and remedies of a creditor, mortgagee and secured party under all applicable law.

Without limiting the generality of the foregoing, upon the occurrence of an Event of Default hereunder, Lender may, at its option, and without notice or demand after the expiration of all applicable cure and grace periods (i) declare the entire unpaid principal and accrued interest accelerated and due and payable at once, together with any and all other liabilities of Maker or any such liabilities selected by Lender; and (ii) set-off against this Note all monies owed by Lender in any capacity to Maker, and Lender shall be deemed to have exercised such right of set-off, and to have made a charge against any such money immediately upon the occurrence of such default, although made or entered on the books subsequent thereto. To the extent that any of the Collateral is personal property and Lender elects to proceed with respect to it in accordance with the Uniform Commercial Code, then, unless that collateral is perishable or threatens to decline speedily in value, or is of a type customarily sold on a recognized market, Lender will give Maker reasonable notice of the time and place of any public or private sale thereof. The requirement of reasonable notice shall be met if such notice is, at the option of Lender, hand delivered, sent via expedited courier, or mailed, postage prepaid to Maker, at the address given to Lender by Maker, or any other address shown on the records of Lender at least five (5) days before the time of sale. Upon disposition of any Collateral after the occurrence of an Event of Default hereunder, Maker shall be and shall remain liable for any deficiency; and Lender shall account to Maker for any surplus, but Lender shall have the right to apply all or part of such surplus (or to hold the same as reserve) against any and all other liabilities of Maker to Lender.

If the calculation of interest or the imposition of a change in the rate of interest after acceleration upon default or the payment of any fees or other charges which are construed to be interest under applicable law, rule, or regulation in effect from time to time, result in an effective rate of interest higher than that permitted to be paid under applicable law, rule, or regulation in effect from time to time, then such charges shall be reduced by a sum sufficient to result in an effective rate of interest no greater than the maximum effective rate of interest permitted to be paid under applicable law, rule or regulation in effect from time to time. The Lender may, in determining the maximum rate permitted under applicable law, rule or regulation in effect from time to time, take advantage of: (i) the rate of interest permitted by Florida Statutes Chapter 665 (Florida Savings Association Act), by reason of both Section 687.12 Florida Statutes ("interest rates: parity among licensed lenders or creditors") and 12 United States Code, Sections 85 and 86, and (ii) any other law, rule or regulation in effect from time to time, available to Lender which exempts Lender from any limit upon the rate of interest it may charge or grants to Lender the right to charge a higher rate of interest than that permitted by Florida



Statutes, Chapter 687. Upon maturity of this Note, whether by acceleration or in due course, interest shall be recalculated over the actual life of the loan based upon the amounts outstanding, and if the total amount of interest theretofore paid exceeds the amount permitted to be paid under applicable law, rule, or regulation in effect from time to time, the excess shall be credited to Principal, or if such excess exceeds the Principal amount due hereunder, refunded to the Borrower.

This Note shall be cross defaulted and cross collateralized with all other loans which Borrower or a Guarantor shall have from Lender (or any subsidiary or affiliated entity of Lender) during the term of this Loan, whether existing as of the closing date or subsequently made. A default under any of the above-described other loans shall constitute a default under this Note. A default under this Note shall constitute a default under the above-described other loans. To the extent not prohibited by applicable law, if Lender, at its option, avails itself of this cross-collateralization/cross default provision, Lender shall have the option to pursue its remedies in any combinations and against any or all of Lender's security for the aforesaid loans, whether successively, concurrently or otherwise.

MAKER AND HOLDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY AND ALL RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION (INCLUDING BUT NOT LIMITED TO) ANY CLAIMS, CROSS CLAIMS OR THIRD PARTY CLAIMS ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREIN. MAKER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE HOLDER NOR THE HOLDER'S COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE HOLDER WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. MAKER ACKNOWLEDGES THAT THE HOLDER HAS BEEN INDUCED TO ENTER INTO THIS LOAN, INCLUDING THIS NOTE, BY, INTER ALIA, THE PROVISIONS OF THIS PARAGRAPH.

RECHTER HOLDINGS, INC.,  
a Florida Corporation

By: 

Dr. Michael R. Rechter, its President

(Corporate Seal)



This Instrument Was Prepared By:  
LAWRENCE J. COFAR, ESQ.  
MORAITIS, COFAR, KARNEY & MORAITIS  
915 Middle River Dr., Suite 506  
Fort Lauderdale, FL 33304

### MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT, executed this 25 day of June, 2014, by and between RECHTER HOLDINGS, INC., a Florida Corporation, whose business address is 241 East Prospect Road, Fort Lauderdale, FL 33334, hereinafter called the "Mortgagor," which term as used in every instance shall include the Mortgagor's heirs, executors, administrators, successors, legal representatives and assigns, either voluntary by act of the parties or involuntary by operation of law and shall denote the singular and/or plural, the masculine and/or feminine and natural and/or artificial persons, whenever and wherever the context so requires or admits, and LANDMARK BANK, N.A., 6300 N.E. 1<sup>st</sup> Avenue, Suite 300, Ft. Lauderdale, Florida, 33334, hereinafter called the "Mortgagee," which term as used in every instance shall include the Mortgagee's successors, legal representatives and assigns, including all subsequent assignees, either voluntary or by act of the parties or involuntary by operation of law. If more than one Person executes this Mortgage, each is and shall be jointly and severally liable hereunder; and if Mortgagor is a general partnership, then all partners in Mortgagor (and if Mortgagor is a limited partnership, then all general partners in Mortgagor) shall be jointly and severally liable hereunder, notwithstanding any contrary provision in the partnership laws of the State of Florida.

#### WITNESSETH;

THAT for divers good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, and to secure the payment of the aggregate sum of money named in the Amended and Restated Promissory Note of even date herewith (hereinafter, the "Promissory Note" or "Note"), hereinafter mentioned, together with interest thereon or so much thereof as may be advanced, and all other sums of money secured hereby as hereinafter provided, the Mortgagor does by these presents give, transfer, grant, bargain, sell, alien, remise, release, assign, mortgage, hypothecate, deposit, pledge, set over, confirm, convey and warrant unto Mortgagee all estate, right, title and interest of Mortgagor, in fee simple, the following described real estate of which the Mortgagor is now seized and possessed, and in actual possession situate in the County of Broward, State of Florida, legally described on Exhibit "A" attached hereto and made a part hereof (the "Premises").

In addition to securing the payment of all sums due per the terms of the Note, this Mortgage secures the following obligations of the Mortgagor:

Any and all of the indebtedness, liabilities, covenants, promises, agreements, terms, conditions, and other obligations of every nature whatsoever, whether joint or several, direct or indirect, absolute or contingent, liquidated or unliquidated, of Mortgagor, Guarantor, or any of them, to Mortgagee, evidenced by, secured by, under and as set forth in the Note, this Mortgage, the Guaranty of Payment and Performance of even date herewith or the other Loan Documents, as defined in the Note;



Any and all other indebtedness, liabilities and obligations of every nature whatsoever (whether or not otherwise secured or to be secured) of Mortgagor, Guarantor, or any of them (whether as maker, endorser, surety, guarantor or otherwise) to Mortgagee or any of Mortgagee's affiliates, whether now existing or hereafter created or arising or now owned or howsoever hereafter acquired by Mortgagee or any of the Mortgagee's affiliates, whether such indebtedness, liabilities and obligations are or will be joint or several, direct or indirect, absolute or contingent, liquidated or unliquidated, matured or unmatured, including, but not limited to, any letter of credit issued by Mortgagee for the account of Mortgagor; together with all expenses, attorneys' fees, paralegals' fees and legal assistants' fees incurred by Mortgagee in the preparation, execution, perfection or enforcement of any document relating to any of the foregoing; and

Any and all Future Advances; and

Any and all of the indebtedness, liabilities, covenants, promises, agreements, terms, conditions and other obligations of any nature whatsoever, whether joint or general, direct or indirect, absolute or contingent, liquidated or unliquidated, of Mortgagor, Guarantor, or any of them, to Mortgagee under any Interest Rate Protection Agreements, including, but not limited to, any and all unpaid accrued payments due Mortgagee, under any Interest Rate Protection Agreement, the present value of future benefits lost by Mortgagee's non-receipt of future payments in excess of corresponding future liabilities under any Interest Rate Protection Agreements, and the costs of collection of all such amounts.

**TOGETHER WITH** the following property and rights (the Premises, together with such property and rights, being hereinafter collectively called "Mortgaged Property" or "Property"):

a. All right, title and interest of Mortgagor in and to the land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises, and in and to the appurtenances thereto;

b. All machinery, apparatus, equipment, fittings, fixtures, leasehold improvements and articles of personal property of every kind and nature whatsoever now or hereafter located in any building on or upon the Premises, or any part thereof, and used or usable in connection with any present or future occupancy of said building and now owned or hereafter acquired by Mortgagor; and,

c. Any and all awards of payments, including interest thereon, and the right to receive the same, which may be made with respect to the Premises as a result of the exercise of the right of eminent domain, the alteration of the grade of any street, any other injury to, or decrease in the value of, the Premises, or proceeds of insurance awards, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Mortgagee, and of the reasonable attorneys' fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment; and Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm such assignment to Mortgagee of any such award or payment.



**TO HAVE AND TO HOLD** the above described Property unto the Mortgagee, its successors and assigns forever.

The Mortgagor hereby covenants with the Mortgagee that the Mortgagor is indefeasibly seized with the absolute and fee simple title to said Property, and has full power and lawful authority to sell, convey transfer and mortgage the same; that it shall be lawful at any time hereafter for the Mortgagee to peaceably and quietly enter upon, have, hold and enjoy said Property, and every part thereof; that this Mortgage is and will remain a valid and enforceable lien on the Mortgaged Property that said Property is free and discharged from all liens, encumbrances and claims of any kind, including taxes and assessments; and that the Mortgagor hereby fully warrants unto the Mortgagee the title to said Property and will defend the same against the lawful claims and demands of all persons whomsoever.

**NOW, THEREFORE**, the condition of this Mortgage is such that if the Mortgagor shall well and truly pay unto the Mortgagee the indebtedness evidenced by (a) the Promissory Note made by the Mortgagor and payable to the Mortgagee in the original principal sum of \$450,000.00 (the "Note or Promissory Note"), together with interest as set forth therein, and (b) all sums advanced by Mortgagee for the benefit of Mortgagor under any other instrument or otherwise, including, without limitation, any amounts paid by Mortgagee under any letters of credit issued by Mortgagee for the benefit of Mortgagor ("Letters of Credit"), and shall perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants contained and set forth in this Mortgage and in the Promissory Note secured hereby, then this Mortgage and the estate hereby created shall cease and be null and void.

**AND** the Mortgagor does hereby covenant and agree:

1. To perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants contained and set forth in the Promissory Note and this Mortgage.
2. To permit, commit or suffer no waste; to comply with or cause to be complied with, all statutes, ordinances and requirements of any governmental or other authority relating to the Mortgaged Property; and to do or permit to be done to said premises nothing that will alter or change the use and character of said Property or in any way impair or weaken the security of this Mortgage. And in case of the refusal, neglect or inability of the Mortgagor to repair and maintain said Property, the Mortgagee may, at its option, make such repairs or cause the same to be made and advance monies in that behalf.
3. That Mortgagor will promptly pay and discharge any and all license fees or similar charges, together with any penalties and interest thereon, which may be imposed by the jurisdiction in which the Premises are situated for the use of vaults, chutes, areas and other space beyond the lot line and under or abutting the public sidewalks in front of or adjoining the premises; that Mortgagor will promptly cure any notice of violation of law and comply with any order entered pursuant to said violation; that if Mortgagor shall default in making such payment



and obtaining such discharge or in curing any such violation Mortgagee may make such payment, together with penalties and interest thereon, and obtain such discharge and cure any such violation, and the amount of such payment and the expenses incurred by Mortgagee in obtaining such discharge and curing any violation shall thereupon be secured by this Mortgage and become a lien on the Mortgaged Property; and that Mortgagor will repay the amount of such payment and such expenses to Mortgagee, together with interest thereon at the delinquent Note rate, within ten (10) days after written demand for said payment is made by Mortgagee to Mortgagor.

4. That Mortgagor will, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Premises or any portion thereof, notify the Mortgagee of the pendency of such proceedings. The Mortgagee may participate in any such proceedings and the Mortgagor, from time to time, will deliver to the Mortgagee all instruments requested by it to permit such participation.

5. That, notwithstanding any taking by eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Mortgaged Property by any public or quasi-public authority or corporation, Mortgagor shall continue to pay interest as provided in the Mortgage Note until any such award or payment shall have been actually received by Mortgagee and any reduction in the principal sum resulting from the application by Mortgagee of such award or payment, as hereinafter set forth, shall be deemed to take effect only on the date of such receipt; that said award or payment may be applied, in such proportions and priority as Mortgagee in Mortgagee's sole discretion may elect, to the payment of principal whether or not then due and payable, or any sums secured by this Mortgage and/or to payment to Mortgagor, on such terms as Mortgagee may specify, to be used for the sole purpose of altering, restoring or rebuilding any part of the Mortgaged Property which may have been altered, damaged or destroyed as a result of any such taking, alteration of grade, or other injury to the Mortgaged Property; and that, if prior to the receipt by Mortgagee of such award or payment, the Mortgagee acquires title to the Property through judicial sale or deed in lieu of foreclosure, then such award shall be applied to payment of the Mortgage debt remaining unsatisfied after such sale or deed in lieu of foreclosure of the Mortgaged Property, the Mortgagee shall be entitled to receive such award after such sale of the Mortgaged Property through judicial proceedings, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, and of the reasonable attorney's fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment.

6. That Mortgagor will, at the cost of the Mortgagor and without expense to the Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assigns, notices of assignments, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring conveying, assigning, transferring and confirming unto the Mortgagee the Property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagor may be or may hereafter become bound to convey or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and on demand will execute and deliver, and hereby authorizes the



Mortgagee to execute in the name of the Mortgagor to the extent it may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien hereof upon the mixed or personal property.

7. a. That the 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 mixed or personal 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 protect the lien hereof upon, and the interest of the Mortgagee in, the Property.

b. That the Mortgagor will pay all filing, registration or recording fees and all expenses incident to the preparation, execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the chattels, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges, other than income taxes, 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.

8. That if the Mortgagor is a corporation, the execution and delivery of this Mortgage has been duly authorized by the Board of Directors of such corporation; and that, if required by the Certificate of Incorporation of such corporation, the execution and delivery of this Mortgage has been duly consented to by the stockholders of such corporation. That if the Mortgagor is a limited liability company, the execution and delivery of this Mortgage has been duly authorized by the Manager or Managing Members of such company; and that, if required by the Operating Agreement of such company, the execution and delivery of this Mortgage has been duly consented to by the members of such company. The Mortgagor will do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges as a business or stock corporation or as a limited liability company under the laws of the State of its formation and will comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to the Mortgagor or the Property or any part thereof.

9. That the Mortgagor, from time to time, on or before December 31st of the year for which such taxes are assessed, will pay and discharge all taxes of every kind and nature (including real and personal property taxes), all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges, and all other public charges whether of a like or different nature, imposed upon or assessed against it or the Mortgaged Property or any part thereof or upon the revenues, rents, issues, income and profits of the Property or arising in respect of the occupancy, use or possession thereof. The Mortgagor will upon the request of the Mortgagee, deliver to the Mortgagee receipts evidencing the payment of all such taxes, assessments, levies, fees, rents and other public charges imposed upon or assessed against it or the Mortgaged Property or the revenues, rents, issues, income or profits thereof. A



failure to comply with the terms of this paragraph shall be a default in this Mortgage and the Mortgagee shall thereafter have the right to accelerate the payment of the unpaid principal indebtedness and to enforce this Mortgage according to the terms hereof.

10. That the Mortgagor will pay from time to time when the same shall become due, all claims and demands of mechanics, materialmen, laborers, and others which, if unpaid, might result in or permit the creation of a lien on the Property, whether paramount or subordinate to this Mortgage, or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom and in general will do or cause to be done everything necessary so that the first lien of this Mortgage shall be preserved, at the cost of the Mortgagor, without expense to the Mortgagee.

11. a. That the Mortgagor will keep all real, mixed and personal property now or hereafter encumbered by the lien of this Mortgage insured, as may be required from time to time by the Mortgagee, against loss by fire, windstorm and other hazards, casualties and contingencies and war risks, if available, including during the course of any construction and/or development work, builders' all risk completed value, non-reporting form insurance for such periods and for not less than their full insurable value in such amounts as may be required by the Mortgagee and to pay promptly when due all premiums for such insurance. The amounts of insurance required by Mortgagee shall be the minimum amounts for which said insurance shall be written and it shall be incumbent upon the Mortgagor to maintain such additional insurance as may be necessary to meet and comply fully with all co-insurance requirements contained in said policies to the end that said Mortgagor is not a co-insurer thereunder. Insurance shall be written by a company or companies approved by the Mortgagee and all policies and renewals thereof shall be held by the Mortgagee. All detailed designations by the Mortgagor which are accepted by the Mortgagee relating to insurance, now existing or hereafter made, shall be in writing and shall be a part of this Mortgage as fully as though set forth verbatim herein, and shall govern both parties hereto and their successors and assigns. No lien upon any of said policies of insurance or upon refund or return premium which may be payable on the cancellation or termination thereof shall be given to other than the Mortgagee, except by proper endorsement affixed to such policy and approved by the Mortgagee. Each policy of insurance shall have affixed thereto a Standard New York Mortgagee clause without contribution, making all loss or losses under such policy payable to the Mortgagee as its interest may appear. In the event any sum or sums of money become payable thereunder, the Mortgagee shall have the option to receive and apply the same on account of the indebtedness hereby secured, or to permit the Mortgagor to receive it and use it, or any part thereof, without thereby waiving or impairing any equity, lien or right under and by virtue of this Mortgage. In the event of loss or physical damage to the Mortgaged Property, the Mortgagor shall give immediate notice thereof by mail to the Mortgagee, and the Mortgagee may make proof of loss if the same is not made promptly by Mortgagor. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagor in and to any insurance policies then in force shall pass to the Purchaser.

b. That provided no Event of Default then exists hereunder, the net insurance proceeds and net proceeds of any condemnation award (in each case after deduction only of



Mortgagee's reasonable costs and expenses, if any, in collecting the same) shall be made available for the restoration or repair of the Property if, in Mortgagee's reasonable judgment (a) restoration or repair is economically feasible, (the value of Mortgagee's security is not reduced), the loss or condemnation, as applicable, does not occur in the six (6) month period preceding the stated maturity date in the Note, (b) Mortgagor deposits with Mortgagee an amount, in cash, which Mortgagee, in its sole discretion, determines is necessary, in addition to the net insurance proceeds or net proceeds of any condemnation award, as applicable, to pay in full the cost of the restoration or repair, and (c) the cost of the restoration or repair is less than fifty percent (50%) of the value of the Property. Mortgagor's deposits made pursuant to this paragraph shall be used before the net insurance proceeds or net proceeds of any condemnation award, as applicable, for such restoration or repair. If the net insurance proceeds or net proceeds of any condemnation award, as applicable, are made available for restoration or repair, such work shall be completed by Mortgagor in an expeditious and diligent fashion, and in compliance with all applicable laws, rules and regulations. Any condemnation award, as applicable, shall be disbursed pursuant to a construction escrow acceptable to Mortgagee. If following the final payment for the completion of such restoration or repair there are any net insurance proceeds or net proceeds of any condemnation award, as applicable, remaining such proceeds shall be paid (i) to Mortgagor to the extent Mortgagor was required to make a deposit pursuant to this paragraph and (ii) then to Mortgagee. If an Event of Default then exists, or any of the conditions set forth in subparagraphs (a) through (c) of this Paragraph 11(b) have not been met or satisfied, the net insurance proceeds or net proceeds of any condemnation award, as applicable, may, at Mortgagee's sole option and in Mortgagee's sole discretion, be applied to the indebtedness secured hereby, whether or not due and payable, with any excess paid to Mortgagor.

12. a. That the Mortgagor shall not transfer, or agree to transfer, in any manner, either voluntarily or involuntarily, directly or indirectly by operation of law or otherwise, all or any portion of the Property, or any interest therein, without in any such case, the prior written consent of Mortgagee. Mortgagee may grant or deny such consent in its sole discretion and, if consent should be given, any such transfer shall be subject to this Mortgage and the other documents, and any such transferee shall assume all of Mortgagor's obligations hereunder and thereunder and agree to be bound by all provisions and perform all obligations contained herein and therein, Mortgagor covenanting and agreeing that the rights and obligations of Mortgagee hereunder and thereunder shall in no way be altered, diminished or otherwise affected thereby. Consent to one such transfer shall not be deemed a waiver of the right to require consent to future or successive transfers. As used in this Paragraph 12, "transfer" shall include without limitation (i) any sale, assignment, lease or conveyance of the Mortgaged Property or any part thereof, or any interest therein, except leases for occupancy subordinate to this Mortgage; (ii) if the Mortgagor should at any time be a general partnership, the sale, assignment or conveyance of any general partnership interest in Mortgagor, or the sale of more than fifty Percent (50%) of the voting stock or partnership interests in any general partner of Mortgagor; or, if the Mortgagor should at any time be a limited partnership, the sale, assignment or conveyance of any limited partnership interest in Mortgagor by any Guarantor, other than for estate planning purposes, or the sale of fifty percent or more of the voting stock or partnership interests in any general partner of Mortgagor; (iii) if the Mortgagor should at any time be a corporation, any sale, assignment or



conveyance of any of the voting stock thereof by any Guarantor of this Loan; (iv) if the Mortgagor should at any time be a limited liability company, any change in the ownership or management of the Mortgagor, and (iv) conveyance of all or any part of the beneficial interest of Mortgagor to a Trustee under a Land Trust, and if the beneficiary thereof should at any time be a partnership, the sale, assignment or conveyance of any general Partnership interest in such beneficiary, or the sale of more than fifty percent (50%) of the voting stock or partnership interests in any general partner of such beneficiary, or if the beneficiary thereof should at any time be a corporation, the sale, assignment or conveyance of more than fifty (50%) percent of the voting stock of said beneficiary. In the event that the Mortgagee consents, in its sole and absolute discretion, which consent may be withheld for any reason whatsoever, to the sale and conveyance of a portion of the Mortgaged Property, the partial release price for that portion of the Mortgaged Property shall be as determined by the Mortgagee at the time the consent is granted.

b. That the Mortgagor shall not encumber, or agree to encumber in any manner, either voluntarily or involuntarily, directly or indirectly, by operation of law or otherwise, all or any portion of the Property, or any interest therein, without, in any such case, the prior written consent of the Mortgagee. The Mortgagee may grant or deny such consent in its sole discretion and, if consent should be given, any such encumbrance shall not be deemed to be a waiver of the right to require consent to future or successive encumbrances. As used herein, "encumber" shall include, without limitation, the placing or permitting the placing of any mortgage, assignment of rents or other security device, including, but not limited to, a wrap around mortgage, on the Property.

13. That the Mortgagee may, at its option and without waiving of its right to accelerate the indebtedness hereby secured and to foreclose the same, pay either before or after delinquency any or all of those certain obligations required by the terms hereof to be paid by the Mortgagor for the protection of the Promissory Note securing or for the collection of the indebtedness hereby secured. All sums so advanced or paid by the Mortgagee shall be charged into the mortgage account and every payment so made shall bear interest from the date thereof at the delinquent rate specified in the Note and become an integral part thereof, subject in all respects to the terms, conditions and covenants of the aforesaid Note and this Mortgage, as fully and to the same extent as though a part of the original indebtedness evidenced by said Note and secured by this Mortgage.

14. That the Mortgagor shall maintain a depository relationship with Mortgagee until such time as this Mortgage has been paid in full and satisfied, which shall include the primary operating accounts for the Property.

15. That the Mortgagor shall pay all and singular the costs, charges and expenses including attorneys' fees and abstract costs, reasonably incurred or paid at any time by the Mortgagee because of the failure of the Mortgagor to perform, comply with and abide by each and every stipulation, agreement, condition and covenant of the Note and of this Mortgage, or either.



16. That in order to accelerate the maturity of the indebtedness hereby secured because of the failure of the Mortgagor to pay any tax assessment, liability, obligation or encumbrance upon said Property as herein provided, it shall not be necessary nor requisite that the Mortgagee shall first pay the same.

17. That any failure by Mortgagee to insist upon the strict performance by Mortgagor of any of the terms and provisions hereof shall not be deemed to be a waiver of any of the terms and provisions hereof, and Mortgagee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Mortgagor of any and all of the terms and provisions of this Mortgage to be performed by Mortgagor. That Mortgagee may release, regardless of consideration, any part of the security held for the indebtedness secured by this Mortgage without, as to the remainder of the security, in any way impairing or affecting the lien of this Mortgage or the priority of such lien over any subordinate lien, and that the Mortgagee may resort, for the payment of the indebtedness secured by this Mortgage, to any other security therefor held by the Mortgagee in such order and manner as Mortgagee may elect.

18. That if the Mortgagor shall fail, neglect or refuse for a period of ten (10) days fully and promptly to pay the amounts required to be paid by the Note hereby secured or the interest therein specified or any of the sums of money herein referred to or hereby secured, including payments to the holder of a superior Mortgage ("Monetary Default"), or otherwise duly, fully and promptly to perform, execute, comply with and abide by each, every or any of the covenants, conditions or stipulations of this Mortgage and the Promissory Note hereby secured ("Non-Monetary Default") within thirty (30) days after written notice for Non-Monetary Defaults and demand to satisfy, comply with or abide by same (provided, however, if such covenants, conditions or stipulations cannot by its nature be cured within thirty (30) days and if Mortgagor commences to cure such failure promptly after written notice and thereafter diligently pursues the curing thereof, Mortgagor shall have a period of thirty (30) additional days to effect a cure), then and in either or any of such events, without any additional notice or demand, the said aggregate sum mentioned in said Promissory Note, less previous payments if any, and any and all sums mentioned herein or secured hereby shall become due and payable forthwith or thereafter at the continuing option of the Mortgagee as fully and completely as if said aggregate sums were originally stipulated to be paid at such time, anything in said Promissory Note or herein to the contrary notwithstanding, and the Mortgagee shall be entitled thereupon or thereafter, without notice or demand, to institute suit at law or in equity to enforce the rights of the Mortgagee hereunder or under said Promissory Note. Monetary Defaults and Non-Monetary Defaults are sometimes hereafter collectively called "Events of Default." In the event of any Event of Default or breach on the part of the Mortgagor hereunder or under said Promissory Note (following applicable notices and the passage of applicable cure periods), the Mortgagee shall have the continuing option to enforce payment of all sums secured hereby by action at law or by suit in equity to foreclose this Mortgage, either or both, concurrently or otherwise, and one action or suit shall not abate or be a bar to or waiver of the Mortgagee's right to institute or maintain the other, provided said Mortgagee shall have only one (1) payment and satisfaction of said indebtedness. Mortgagee shall not be required to give written notices of Monetary Defaults.



19. That in the event that Mortgagor shall (1) consent to the appointment of a receiver, trustee, or liquidator of all or a substantial part of Mortgagor's assets, or (2) be adjudicated a bankrupt, or admit in writing its inability to pay its debts as they become due or (3) make a general assignment for the benefit of creditors or (4) file a petition or answer seeking reorganization or arrangement with creditors, or to take advantage of any insolvency law or (5) file an answer admitting the material allegations of a petition filed against the Mortgagor in any bankruptcy, reorganization or insolvency proceeding or (6) action shall be taken by the Mortgagor for the purpose of effecting any of the foregoing or (7) any order, judgment or decree shall be entered upon an application of a creditor or Mortgagor by a court of competent jurisdiction approving a petition seeking appointment of a receiver or trustee of all or a substantial part of the Mortgagor's assets and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) consecutive days, the Mortgagee may declare the Note hereby secured forthwith due and payable, whereupon the principal and the interest accrued on the Note and all other sums hereby secured shall become forthwith due and payable as if all of the said sums of money were originally stipulated to be paid on such day; and thereupon the Mortgagee without notice or demand may prosecute a suit at law and/or in equity as if all monies secured hereby had matured prior to its institution.

20. If foreclosure proceedings should be instituted against the Property covered by this Mortgage upon any other lien or claim whether alleged to be superior or junior to the lien of this Mortgage, the Mortgagee may, at its option, immediately upon institution of such suit or during the pendency thereof, declare this Mortgage and the indebtedness secured hereby due and payable forthwith and may at its option proceed to foreclose this Mortgage.

21. It is further covenanted and agreed by said parties that in the event of a suit being instituted to foreclose this Mortgage, the Mortgagee shall be entitled to apply at any time pending such foreclosure suit to the court having jurisdiction thereof for the appointment of a receiver of all and singular the Property, and thereupon it is hereby expressly covenanted and agreed that the court shall forthwith appoint such receiver with the usual powers and duties of receivers in like cases; and said appointment shall be made by the court as a matter of strict right to the Mortgagee, and without reference to the adequacy or inadequacy of the value of the Property hereby mortgaged, or to the solvency or insolvency of the Mortgagor or any other party defendant to such suit. The Mortgagor hereby specifically waives the right to object to the appointment of a receiver as aforesaid and hereby expressly consents that such appointment shall be made as an admitted equity and as a matter of absolute right to the Mortgagee and that the same may be done without notice to the Mortgagor.

22. During the continuance of any such Event of Default, the Mortgagee personally, or by its agents or attorneys, may enter (following any applicable notice to Mortgagor and the passage of any applicable cure period) into and upon all or any part of the Premises, and each and every part thereof, and may exclude the Mortgagor, its agents and servants wholly therefrom; and having and holding the same, may use, operate, manage and control the Premises and conduct the business thereof, either personally or by its superintendents, managers agents, servants, attorneys or receivers; and upon every such entry, the Mortgagee at the expense of the Property or the



Mortgagor from time to time either by purchase, repairs or construction, may maintain and restore the Property, whereof it shall become possessed as aforesaid, may complete the construction or development of the improvements and, in the course of such completion may make such changes in the contemplated improvements as it may deem desirable and may insure the same; and likewise, from time to time at the expense of the Property or the Mortgagor, the Mortgagee may make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, betterments and improvements thereto and thereon as to it may deem advisable; and in every such case the Mortgagee shall have the right to manage and operate the Property and to carry on the business thereof and exercise all rights and powers of the Mortgagor with respect thereto either in the name of the Mortgagor or otherwise as it shall deem best; and the Mortgagee shall be entitled to collect and receive all earnings, revenues, rents, issues, profits and income of the Property and every part thereof, all of which shall for all purposes constitute property of the Mortgagor and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for taxes, assessments, insurance and prior or other proper charges upon the Property or any part thereof, as well as just and reasonable compensation for the services of the Mortgagee and for all attorneys, agents, clerks, servants and others employed by it properly engaged and employed, the Mortgagee shall apply the monies arising as aforesaid, first to the payment of the principal of the Note and the interest thereon, when and as the same shall become payable and second, to the payment of any other sums required to be paid by the Mortgagor under this Mortgage.

23. Mortgagor hereby collaterally assigns and transfers to Mortgagee all the leases, subleases, franchises, rents, issues and profits of the Property, and hereby gives to and confers upon Mortgagee the right, power and authority to collect such rents, issues and profits as herein set forth. Mortgagor irrevocably appoints Mortgagee its true and lawful attorney-in-fact, at the option of Mortgagee, immediately and without further legal action being necessary, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Mortgagor or Mortgagee, for all such rents, issues and profits and apply the same to the indebtedness secured hereby; provided, however, that Mortgagor shall have the right to collect such rents, issues and profits (but not more than one month in advance) prior to or at any time there is not an Event of Default under this Mortgage.

While any Event of Default exists under this Mortgage, Mortgagee may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Mortgaged Property, or any part thereof, in its own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine. The collection of such rents, issues and profits, or the entering upon and taking possession of the Property, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such Event of Default or pursuant to such notice of default.



Except as hereinafter specifically provided, Mortgagor shall not, without the prior written consent of the Mortgagee, assign the rents, issues or profits, or any part thereof, from the Mortgaged Property or any part thereof, and shall not consent to the modification, cancellation or surrender of any lease or sublease covering the Property. An action of Mortgagor in violation of the terms of this Section shall be void as against Mortgagee in addition to being a default under this Mortgage.

The Mortgagor shall not, without the consent of the Mortgagee, consent to the cancellation or surrender or, accept prepayment of rents, issues or profits, other than rent paid at the signing of a lease or sublease, under any lease or sublease now or hereafter covering the Mortgaged Property or any part thereof, nor modify any such lease or sublease so as to shorten the term, decrease the rent, accelerate the payment of rent, or change the terms of any renewal option; and any such purported assignment cancellation, surrender, prepayment or modification made without the written consent of the Mortgagee shall be void as against the Mortgagee. The Mortgagor shall, upon demand of the Mortgagee, enter into an agreement with the Mortgagee with respect to the provisions contained in the preceding provision regarding any lease or sublease covering said Property or any part thereof, and the Mortgagor hereby appoints the Mortgagee attorney-in-fact on behalf of the Mortgagor to execute and deliver any such agreement on behalf of the Mortgagor and deliver written notice thereof to the tenant to whose lease such agreement relates.

The Mortgagor agrees to furnish to the Mortgagee a copy of any modification of any lease presently in effect and copies of all future leases affecting the Property covered by this Mortgage, and failure to furnish to the Mortgagee a copy of any modification of a lease or a copy of any future lease affecting the Property, shall be deemed an Event of Default under this Mortgage and the Note, for which the holder of this Mortgage may, at its option, declare the entire unpaid balance of the subject Mortgage and Note to be immediately due and payable.

All leases or subleases hereafter entered into by Mortgagor with respect to the Mortgaged Property or any part thereof, shall be subordinate to the lien of this Mortgage unless expressly made superior to this Mortgage in the manner hereinafter provided. At any time or times Mortgagee may execute and record in the appropriate Office of the Register or County Clerk of the County where the Premises are situated, a Notice of Subordination reciting that the lease or leases therein described shall be superior to the lien of this Mortgage from and after the recordation of such Notice of Subordination, the lease or leases therein described shall be superior to the lien of this Mortgage and shall not be extinguished by any foreclosure sale hereunder.

24. In case of proceedings by or against the Mortgagor in insolvency or bankruptcy or any proceedings for its reorganization or involving the liquidation of its assets then, and in such case, the Mortgagee shall be entitled to prove the whole amount of principal and interest due upon the Note to the full amount thereof and all other payments, charges and costs due under this Mortgage, without deducting therefrom any proceeds obtained from the sale of the whole or any part of the Property, unless such proceeds from the sale are received by the Mortgagor; provided, however, that in no case shall the Mortgagee receive a greater amount than such principal and



interest and such other payments, charges and costs from the aggregate amount of the proceeds of the sale of the Property and the distribution from the estate of the Mortgagor.

25. That the Mortgagee shall have the right from time to time, to take action to recover any sums, whether interest, principal or any installment of either, or any other sums required to be paid under the terms of this Mortgage, as the same become due, without regard to whether or not the principal sum secured, or any other sums secured, by the Note and Mortgage, shall be due and without prejudice to the right of action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced. No remedy conferred or reserved to the Mortgagee herein or in the Note is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given to the Mortgagee now or hereafter existing at law or in equity or by statute. No delay or omission of the Mortgagee to exercise any right or power accruing upon any Event of Default herein, or in the Note, shall impair any such default or constitute an acquiescence therein; and every power and remedy given by the Mortgage herein or in the Note to the Mortgagee, may be exercised from time to time as often as may be deemed expedient by the Mortgagee. Nothing in this Mortgage or in the Note shall affect the obligation of the Mortgagor to pay the principal of, and interest on, the Note in the manner and at the time and place therein respectively expressed.

26. That the Mortgagor will not, at any time, insist upon or plead, or in any manner whatever, claim or take any benefit or advantage of, any stay or extension of moratorium law, any exemption from execution or sale of the Property or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage, nor claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor, after any such sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted, by any governmental authority or otherwise, to redeem the Property so sold or any part thereof, and the Mortgagor hereby expressly waives all benefit or advantage of any such law or laws, and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. The Mortgagor for itself and all who claim under it, waives, to the extent that it lawfully may, all right to have the Property marshalled upon any foreclosure hereof.

27. That to the extent of the indebtedness of the Mortgagor to the Mortgagee described herein or secured hereby, the Mortgagee is hereby subrogated to the lien or liens and to the rights of the owners and holders thereof, of each and every mortgage, lien or other encumbrance on the land described herein which is paid and/or satisfied, in whole or in part, out of the proceeds of the loan described herein secured hereby, and the respective liens of said mortgages, liens or encumbrances, shall be and the same and each of them hereby is preserved and shall pass to and be held by the Mortgagee herein as security for the indebtedness to the Mortgagee herein described or hereby secured, to the same extent that it would have been



preserved and would have been passed to and been held by the Mortgagee had it been duly and regularly assigned, transferred set over and delivered unto the Mortgagee by separate deed of assignment, notwithstanding the fact that the same may be satisfied and cancelled of record, it being the intention of the parties hereto that the same will be satisfied and cancelled of record by the holders thereof at or about the time of the recording of this Mortgage.

28. That in the event any one or more of the provisions contained in this Mortgage or in the Mortgage Note shall, for any reason, be held to be inapplicable, invalid, illegal or unenforceable in any respect, such inapplicability, invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such applicable, invalid, illegal or unenforceable provision had never been contained herein or therein.

29. That all notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by facsimile (notice sent by facsimile shall be deemed given when such facsimile is received by the other party) or by registered or certified mail with return receipt requested to any party hereto at its address listed below or at such other address of which written notification has been given to the other party, as provided herein:

TO THE MORTGAGEE: Landmark Bank, N.A.  
6300 N.E. 1<sup>st</sup> Avenue, Suite 300  
Ft. Lauderdale, Florida 33334  
Attention: Commercial Lending Department

TO THE MORTGAGOR: Dr. Michael R. Rechter, President  
Rechter Holdings, Inc.  
241 East Prospect Road,  
Fort Lauderdale, FL 33334

30. That all of the grants, covenants, terms, provisions and conditions herein shall run with the land and shall apply to, bind and inure to the benefit of the successors and assigns of the Mortgagor and successors and assigns of the Mortgagee.

31. That in the event of a uncured default and in the sole discretion of the Mortgagee, upon receipt of written demand therefore from the Mortgagee, the said Mortgagor will pay unto the Mortgagee together with the monthly mortgage payment, a sum equal to one-twelfth (1/12th) of the annual amount necessary to pay all taxes and assessments against the said Mortgaged Property, said monthly sum to be estimated solely by the Mortgagee and calculated to be an amount not less than the amount of taxes assessed against said Mortgaged Premises for the previous year, and to pay all insurance premiums in a manner and form as provided herein for the payment of taxes and assessments. All such sums paid to the Mortgagee under this paragraph shall be applied by the Mortgagee to the payment of such taxes, assessments and insurance premiums.



32. That the Mortgagor will, on the request of the Mortgagee, furnish a written statement of the amount owing on the obligation which this Mortgage secures and therein state whether or not Mortgagor claims any defenses or offsets thereto. The Mortgagee agrees that it will, on request of the Mortgagor furnish a written statement of the amount owing on the obligation which this Mortgage secures and therein state whether or not Mortgagor is current in its payments and whether Mortgagee has knowledge of any defaults hereunder specifying therein the nature of such defaults, if any.

33. That the Mortgagor covenants that in the event the ownership of the Property or any part thereof becomes vested in a person other than the Mortgagor, the Mortgagee may, without notice to the Mortgagor, deal with such successor or successors in interest with reference to this Mortgage, and the debt secured hereby in the same manner as with the Mortgagor and may forbear to sue or may extend time for payment of the debt secured thereby, without discharging or in any way affecting the liability of the Mortgagor hereunder or upon the debt hereby secured.

34. That this Mortgage cannot be changed orally.

35. That it is the intent hereof to secure payment of the Note whether the full amount thereof shall have been advanced to the Mortgagor at the date hereof or at a later date, and the Mortgagee may, at the sole option of the Mortgagee, from time to time make future advances to the Mortgagor, which advances shall be secured by this Mortgage, provided, however, that the total principal sum secured hereby and remaining unpaid including any such advances, shall not at any time exceed the sum of \$900,000.00, plus such future advances as are made for the protection of the security of the Mortgage or as a result of the negative amortization or deferred interest secured by this mortgage and any disbursements made for the payment of taxes, levies or insurance on the Property. All such future advances shall be made within the time limit authorized by Florida law for making valid future advances with interest and all indebtedness hereby. All provisions of this Mortgage shall apply to any future advances made pursuant to the provisions of this paragraph. Nothing herein contained shall limit the amount secured by this Mortgage, if such amount is increased by advances made by the Mortgagee as herein elsewhere provided and authorized for the protection of the security of the Mortgage.

36. That if from any circumstances whatever, fulfillment of any provision of this Mortgage or the Note secured by it at the time performance of said provision shall be due, shall involve transcending the limit of validity prescribed by the usury statutes of Florida, or any other law of Florida then ipso facto the obligation to be fulfilled shall be reduced to the limit of such validity.

37. INTENTIONALLY OMITTED.

38. That from and after the occurrence of an Event of Default under this Mortgage and the Note which it secures, or the maturity thereof, whether normal maturity or accelerated maturity, both the unpaid principal balance and accrued interest, on the Note, shall bear interest at the default interest rate set forth in the Note.



39. That in the event any law is passed in the State of Florida which would impose upon the Mortgagee an obligation to pay any tax other than income taxes or the intangible personal property tax paid at the time of the recordation of this Mortgage, then and in such event, the Mortgagor immediately upon demand will reimburse the Mortgagee for the amount of such tax paid by Mortgagee. If the Mortgagor is prohibited by law from making such reimbursement to the Mortgagee, or if the payment of such reimbursement by the Mortgagor would result in the violation of any statute of the State of Florida, the Mortgagee, at its option, shall have the right to declare the unpaid principal indebtedness plus accrued interest immediately due and payable.

40. That this Mortgage shall be construed and governed by the laws of the State of Florida.

41. That this Mortgage is a Security Agreement (as defined in the Florida Uniform Commercial Code), and a carbon, photographic, or other reproduction of either this Mortgage or a financing statement shall be sufficient as a financing statement under the Florida Uniform Commercial Code. The remedies for any violation of the covenants, terms and conditions contained in this Mortgage shall be as prescribed (i) in this Mortgage, (ii) by general law or (iii) as to any items included in the definition of the Property that may also be listed in any filed financing statement, by the specific statutory provisions now or hereafter enacted and specified in the Florida Uniform Commercial Code, all at Mortgagee's sole election. Mortgagor and Mortgagee agree that the filing of such a financing statement in the records normally pertaining to personal property shall never derogate from or impair in any way their declared intention that everything used in connection with the production of income from the Property or described or reflected in this Mortgage is (and at all times, for all purposes and in all proceedings, both legal and equitable, shall be regarded as) part of the real estate to the fullest extent permitted by law, irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain items of Equipment capable of being thus identified in a recital contained herein or in a list filed with Mortgagee, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (a) the rights in or the proceeds of any insurance policy, (b) any award in eminent domain proceedings for a taking or for loss of value, (c) Mortgagor's interest as lessor in any present or future lease or right to income growing out of the use or occupancy of the Property or improvements thereto, whether pursuant to lease or otherwise, or (d) any other item included in the definition of the Property, shall never be construed to alter any or the rights of Mortgagee as determined by this Mortgage or to impugn the priority of the interests of Mortgagee granted in this Mortgage or by any other recorded instrument; such mention in a financing statement is declared to be for the protection of Mortgagee in the event any court shall hold with respect to (a), (b), (c) or (d) that notice of Mortgagee's priority of interest, to be effective against a particular class of persons, including but not limited to the federal government and any subdivision or entity of the federal government, must be filed in the Uniform Commercial Code records.

42. That the Mortgagor shall faithfully and fully comply with and abide by each and every term, covenant, and condition of any superior mortgage or mortgages and never permit the



same to go into default. A default or delinquency under any superior mortgage or mortgages shall automatically and immediately constitute an Event of Default under this Mortgage. The Mortgagee is hereby expressly authorized at the option of the Mortgagee, to advance all sums necessary to keep any superior mortgage or mortgages in good standing, and all sums so advanced together with interest thereon at the default rate set forth in the Note shall be determined additional monies owed by the Mortgagor to the Mortgagee, shall be payable on demand of the Mortgage, and secured by the lien of this Mortgage.

43. That no extension of the time or modification of the terms of payment of the Promissory Note and no release of any part or parts of the Property by the Mortgagee shall release, relieve or discharge the Mortgagor from the payment of any sums hereby secured but in such event the Mortgagor shall nevertheless be liable to pay such sums according to the terms of such extension or modification unless specifically released and discharged in writing by the Mortgagee. Any acceptance by the Mortgagee of late or part payment of any installment of principal or interest, or both, or of late or part performance of any covenant or delay by the Mortgagee for any period of time in exercising the option to mature the entire debt secured hereby shall not operate as a waiver or forfeiture of the right to exercise such option to mature the entire debt secured hereby. THE MORTGAGOR ACKNOWLEDGES THAT THE FOREGOING MAY RESULT IN A MODIFICATION OF THE COMMON LAW RULES OF WAIVER AND ESTOPPEL. THE MORTGAGOR AFFIRMATIVELY STATES THAT SUCH MODIFICATION IS INTENDED, IT BEING IN THE BEST INTEREST OF THE MORTGAGOR TO PERMIT THE MORTGAGEE FLEXIBILITY IN RESPONDING TO VARIOUS SITUATIONS. As an example, it is to the Mortgagor's benefit that the Mortgagee not be obligated to accelerate the obligations of the Mortgagor secured hereby where the Mortgagor fails to make a payment when it is due; rather the Mortgagee may permit said late payment without prejudicing the Mortgagee's rights hereunder.

44. That the Mortgagor and Guarantor(s) shall furnish to the Mortgagee, the following financial information, in accordance with generally accepted accounting principles consistently applied and otherwise in form and substance satisfactory to Mortgagee:

A. Tax Returns. The Mortgagor and Guarantor(s) shall deliver to the Mortgagee, within thirty (30) days of filing, complete copies of federal and state tax returns, as applicable, together with all schedules thereto, each of which shall be signed and certified by Mortgagor to be true, correct and complete copies of such returns. In the event an extension is filed, Mortgagor shall also deliver a copy of such extension within fifteen (15) days of filing.

B. Mortgagor Financial Statements. Mortgagor shall deliver to Mortgagee, within thirty (30) days after the anniversary date of the prior statement and at such other intervals as may be required by Mortgagee, (i) statements, in a form acceptable to Mortgagee, reflecting its operations during such fiscal year, including, without limitation, a balance sheet, profit and loss statement, including sources of income, and a statement of each cash flow for the Property, with supporting schedules, all in reasonable detail prepared in conformity with generally accepted accounting principles, applied on a basis consistent with that



of the preceding year; (ii) a profit and loss statement covering the operation of the Property to Mortgagee; and (iii) rent roll for the Property, within ten (10) days after the end of each calendar year, and at such other intervals as may be required by Mortgagor, all certified by Mortgagor to be accurate.

C. Individual Guarantors Financial Statements. Individual Guarantors shall deliver to Mortgagee, within (30) days after the anniversary date of the prior statement, Guarantor's personal financial statement. Said financial statement shall disclose all of Guarantor's assets, liabilities, net worth, income, and contingent liabilities, all in reasonable detail and acceptable to Mortgagee, and submitted on a form to be provided by Mortgagee or on such other form acceptable to Mortgagee, signed by Guarantor and certified by Guarantor to Mortgagee to be true, correct and complete.

D. Other. Mortgagor and Guarantor(s) shall deliver to Mortgagee, upon request, such other financial information or documentation as Mortgagee may reasonably require including, but not limited to, an annual profit and loss statement covering the operation of the Property certified by Mortgagor to be accurate and a monthly rent roll for the Property certified by Mortgagor to be accurate, as Mortgagee may request.

45. A. Hazardous Waste. That "Hazardous Waste" shall mean and include those elements or compounds which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material as now or at any time in effect.

B. Representations and Warranties: That Mortgagor specifically represents and warrants that the use and operation of the Premises comply with all applicable environmental laws, rules and regulations, including, without limitation, the Federal Resource Conservation and Recovery Act and the Comprehensive Environmental Response Compensation and Liability Act of 1980 and all amendments and supplements thereto and Mortgagor shall continue to comply therewith at all times. Specifically, and without limiting the generality of the foregoing, there are not now and there shall not in the future be any Hazardous Waste located or stored in, upon or at the Premises, and there are not now nor shall there be at any time any releases or discharges from the Mortgaged Premises.

C. Indemnification:

1. That Mortgagor hereby agrees to indemnify Mortgagee and hold Mortgagee harmless from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including attorneys' fees for attorneys of Mortgagee's choice, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Mortgagee by a person or entity or governmental agency for,



with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the Premises of any hazardous waste (including, without limitation, any losses, liabilities, including strict liability, damages, injuries, expenses, including attorney's fees for attorneys of Mortgagee's choice, costs of any settlement or judgments or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local "Superfund" or "Superlien" laws, and any and all other statutes, laws, ordinances, codes, rules, regulations, orders or decrees regulating, with respect to or imposing liability, including strict liability, substances or standards of conduct concerning any hazardous waste), regardless of whether within Mortgagor's control.

2. That the aforesaid indemnification and hold harmless agreement shall benefit Mortgagee from the date hereof and shall continue notwithstanding payment, release or discharge of this Mortgage or the Indebtedness, and, without limiting the generality of the foregoing, such obligations shall continue for the benefit of Mortgagee and any subsidiary of Mortgagee during and following any possession of the Premises thereby or any ownership of the Premises thereby, whether arising by foreclosure or deed in lieu of foreclosure or otherwise, such indemnification and hold harmless agreement to continue forever.

D. Notice of Environmental Complaint. That if Mortgagor shall receive any notice of: (i) the happening of any material event involving the spill, release, leak, seepage, discharge or cleanup of any Hazardous Waste on the Land or in connection with Mortgagor's operations thereon; or (ii) any complaint, order, citation or material notice with regard to air emissions, water discharges or any other environmental, health or safety matter affecting Mortgagor (an "Environmental Complaint") from any person or entity, then Mortgagor immediately shall notify Mortgagee orally and in writing of said notice.

E. Mortgagee's Reserved Rights. That in the event of receipt of an Environmental Complaint, Mortgagee shall have the right, but not the obligation (and without limitation of Mortgagee's rights under this Mortgage) to enter onto the Premises or to take such other actions as it shall deem necessary or advisable to clean up, remove, resolve or minimize the impact of, or otherwise deal with, any such Hazardous Waste or Environmental Complaint following receipt of any notice from any person or entity having jurisdiction asserting the existence of any Hazardous Waste or an Environmental Complaint pertaining to the Premises or any part thereof which if, true, could result in an order suit or other action against Mortgagor and/or which, in Mortgagee's sole opinion, could jeopardize its security under this Mortgage. All reasonable costs and expenses incurred by Mortgagee in the exercise of any such rights shall be secured by this Mortgage and shall be payable by Mortgagor upon demand.

F. Environmental Audits. That if Mortgagee shall have reason to believe that Hazardous Waste has been discharged on the Premises, Mortgagee shall have the right, in its sole discretion, to require Mortgagor to perform periodically to Mortgagee's satisfaction (but not more frequently than annually unless an Environmental Complaint shall be then outstanding), at Mortgagor's expense, an environmental audit and, if deemed necessary by Mortgagee, an environmental risk assessment of: (a) the Premises; (b) hazardous waste management practices



and/or (c) Hazardous Waste disposal sites used by Mortgagor. Said audit and/or risk assessment must be by an environmental consultant satisfactory to Mortgagee. Should Mortgagor fail to perform any such environmental audit or risk assessment within thirty (30) days after Mortgagee's request, Mortgagee shall have the right to retain an environmental consultant to perform such environmental audit or risk assessment. All costs and expenses incurred by Mortgagee in the exercise of such rights shall be secured by this Mortgage and shall be payable by Mortgagor upon demand.

G. Breach. That any breach of any warranty, representation or agreement contained in this Section shall be an Event of Default and shall entitle Mortgagee to exercise any and all remedies provided in this instrument, or otherwise permitted by law.

46. That notwithstanding any term or provision hereof to the contrary, if at any time and for any reason the Mortgagee, in its reasonable discretion, determines that the value of the Property may have declined or be less than Mortgagee previously anticipated and an uncured Event of Default has occurred hereunder or under the other loan documents, within sixty (60) days from Mortgagee's written request to Mortgagor therefor, or if at any time required by any bank regulatory or governing agency, Mortgagor shall provide to Mortgagee, at Mortgagor's sole cost and expense, a current appraisal of the Premises to be ordered by the Mortgagee from an appraiser designated by Mortgagee and in form and content as required by Mortgagee. Mortgagor shall cooperate fully with any such appraiser and provide all such documents and information as such appraiser may request in connection with such appraiser's performance and preparation of such appraisal. Mortgagor's failure to promptly and fully comply with Mortgagee's requirements under this paragraph shall without further notice, constitute an additional Event of Default under this Agreement and the other loan documents.

47. That the Mortgagor expressly represents to the Mortgagee that there is no, nor will there be in the future, asbestos insulation in the improvements to the Premises. The Mortgagor agrees to indemnify, defend and hold the Mortgagee harmless from and against any loss, cost or expense incurred by the Mortgagee, including without limitation attorneys' fees at both trial and appellate levels, incurred by the Mortgagee as a result of such present or future existence of asbestos insulation.

48. That the Mortgagee shall have the right to set off and charge against any bank account of Mortgagor with Mortgagee for interest and principal due and payable, as provided in the Note, along with additional monies which may accrue pursuant to the terms hereof, as the same becomes due.

49. American With Disabilities Act: That during the term of the loan evidenced by the Note, the Mortgaged Property is and will be in full compliance with the Americans With Disabilities Act ("ADA") of July 26, 1990, 42 U.S.C. Section 12191, et. seq. as amended from time to time, and the regulations promulgated pursuant thereto. Mortgagor shall be solely responsible for all ADA compliance costs, including without limitation, attorneys' fees and



litigation costs, which responsibility shall survive the repayment of the loan evidenced by the Note and foreclosure of the Premises.

50. That if at any time the State of Florida shall determine that the Intangible Tax paid in connection with this Mortgage is insufficient and/or that the Documentary Stamps affixed to the Note or hereto are insufficient and that additional Intangible tax should be paid and/or that additional Documentary Stamps should hereafter be affixed, the Mortgagor shall pay for the same, together with any interest or penalties imposed in connection with such determination, and the amount of money needed to pay for such tax stamps and penalties shall, until such tax is paid and stamps are purchased and affixed by Mortgagor, be a portion of the indebtedness secured by this Mortgage and bear interest from the date of such payment by Mortgagee, if Mortgagee elects to pay same, at the highest lawful rate.

51. INTENTIONALLY OMITTED.

52. U.S.A. Patriot Act.

(a) That Mortgagor hereby represents and warrants to, and covenants with, Mortgagee that as of the date hereof and until such time as the Obligations shall be paid in full:

(i) None of the entities comprising Mortgagor or Guarantor, any of its direct or indirect constituents or affiliates, or any of their respective officers or directors (including officers or directors of any such constituents or affiliates), and, to Mortgagor's knowledge, any of their respective brokers, investors or other agents acting or benefiting in any capacity in connection with the Loan, is a Prohibited Person (as defined below);

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

(iii) To Mortgagor's knowledge, none of the brokers, investors or other agents for any entity comprising Mortgagor, Guarantor, or any indemnitor or principal under the Loan Documents acting in any capacity in connection with the Loan (A) has conducted or will conduct any business or has engaged or will engage in any transaction or dealing with any Prohibited Person, including making or receiving any contribution of funds, goods or services to



or for the benefit of any Prohibited Person, (B) has dealt or will deal in, or otherwise has engaged or will engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order; or (C) has engaged or will engage in or has conspired or will conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the requirements or prohibitions set forth in the Executive Order or the Patriot Act;

a. Mortgagor covenants and agrees to deliver to Mortgagee any certification or other evidence requested from time to time by Mortgagee, confirming Mortgagor's compliance with this Section;

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

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

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

e. Mortgagor covenants that it will adopt appropriate policies, procedures and internal controls to be fully compliant with any additional laws, rules or regulations relating to money laundering and/or terrorism, including the Patriot Act, to which it may become subject;

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

g. Mortgagor will advise Mortgagee immediately of any material change that would affect the representations, covenants and warranties provided in this Section.



(b) That for purposes hereof, "IEEPA" means the International Emergency Economic Power Act, 50 U.S.C. Section 1701 et. seq. "OFAC" means the U.S. Department of Treasury's Office of Foreign Asset Control. "Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (The USA Patriot Act). "Prohibited Person" means any Person: (i) listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (the "Executive Order"); (ii) that is owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of the Executive Order; (iii) with whom Mortgagee is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering legal requirements, including the Patriot Act and the Executive Order; (iv) that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; (v) that is named as a "specifically designated national (SDN)" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/ofac/t11sdn.pdf> or at any replacement website or other replacement official publication of such list or is named on any other U.S. or foreign government or regulatory list issued post-09/11/01; (vi) that is covered by IEEPA, OFAC or any other law, regulation or executive order relating to the imposition of economic sanctions against any country, region or individual pursuant to United States law or United Nations resolution; or (vii) that is an affiliate (including any principal, officer, immediate family member or close associate) of a person or entity described in one or more of clauses (i) – (vi) of this definition of Prohibited Person.

53. Homestead. That Mortgagor hereby waives and renounces all homestead and exemption rights provided by the Constitution and laws of the United States and of the State of Florida, in and to the Premises as against the collection of any sums due per the terms of the Note and/or this Mortgage.

54. Automatic Stay. That, in consideration of the recitals and mutual covenants contained herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Mortgagor does agree that in the event Mortgagor or (if applicable) any partner of Mortgagor shall (i) file with any bankruptcy court of competent jurisdiction or be the subject of any petition under Title 11 of the U. S. Code, as amended; (ii) be the subject of any order for relief issued under such Title 11 of the U. S. Code, as amended; (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 acquiesced in the appointment of any trustee, receiver, conservator, or liquidator; or (v) be the subject of any order, judgment or decree entered by any court of competent jurisdiction approving a petition filed against such party 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 and in any such events, Mortgagee shall thereupon be entitled to relief from any automatic stay imposed by



Section 362 of Title 11 of the U. S. Code, as amended, or otherwise, on or against the exercise of the rights and remedies otherwise available to Mortgagee as provided in the Note, the Mortgage, and all associated documents and as otherwise provided by law. Mortgagor hereby agrees not to object to Mortgagee immediately seeking relief from the automatic stay, to allow Mortgagee to proceed immediately to obtain a final judgment of foreclosure of this Mortgage, to complete a foreclosure sale and/or to proceed against and realize upon the collateral for the indebtedness secured hereby and to otherwise allow Mortgagee to take all such actions as Mortgagee may elect in its sole discretion in pursuance of the other rights and remedies available in the event of a default by Mortgagor under this Mortgage and all associated loan documents. Mortgagor hereby waives any protection afforded under 11 USC, Section 362(a).

**55. MORTGAGOR, AND MORTGAGEE BY ACCEPTANCE HEREOF, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY AND ALL RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION (INCLUDING BUT NOT LIMITED TO, ANY CLAIMS, CROSS CLAIMS OR THIRD PARTY CLAIMS ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREIN. MORTGAGOR HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE MORTGAGEE NOR THE MORTGAGEE'S COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE MORTGAGEE WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. MORTGAGOR ACKNOWLEDGES THAT THE MORTGAGEE HAS BEEN INDUCED TO ENTER INTO THIS LOAN, INCLUDING THIS MORTGAGE, BY, INTER ALIA, THE PROVISIONS OF THIS PARAGRAPH.**

IN WITNESS WHEREOF, this Mortgage has been executed as of the day and year first above written.

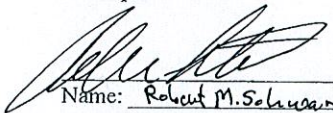
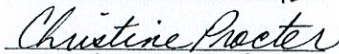
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;

SIGNATURE(S) ON FOLLOWING PAGE(S)]



Signed, sealed and delivered  
in the presence of:

RECHTER HOLDINGS, INC.,  
a Florida Corporation

  
Name: Robert M. Schwartz  
  
Name: Christine Procter

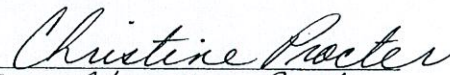
By:   
Dr. Michael R. Rechter, its President

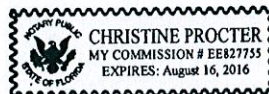
(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing document was acknowledged before me this 25<sup>th</sup> day of June, 2014, by  
Dr. Michael R. Rechter, as President of Rechter Holdings, Inc., a Florida Corporation, acting on  
behalf of said corporation. He is personally known to me or has produced \_\_\_\_\_  
\_\_\_\_\_ as identification and did (not) take an oath.

My commission expires:

  
Name: Christine Procter  
Notary Public, State of Florida





## **Exhibit "A"**

### **LEGAL DESCRIPTION**

Lot 17 less the East 10 feet thereof, of Block 214 of PROGRESSO, according to the Plat thereof recorded in Plat Book 2, Page 18, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida (PCN 494234-05-7040); and

Lots 18, 19, and 20, all less the East 10 feet thereof, of Block 214 of PROGRESSO, according to the Plat thereof recorded in Plat Book 2, Page 18, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida (PCN 494234-05-7050); and

Lot 21 of Block 214, less the East 10 feet thereof, and all that part of Block 214 of PROGRESSO lying South of said Lot 21 and East of the alley running North and South through said Block 214, according to the Plat thereof recorded in Plat Book 2, Page 18, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida (PCN 494234-05-7180).