



# OFFICE OF THE PROPERTY APPRAISER

## Summary Report

Generated On : 7/25/2022

Property Information	
Folio:	03-4108-001-1561
Property Address:	545 CORAL WAY Coral Gables, FL 33134-4923
Owner	VALENCIA 520 524 LLC
Mailing Address	2050 DOUGLAS RD #301 CORAL GABLES, FL 33134 USA
PA Primary Zone	5002 HOTELS & MOTELS - GENERAL High Density
Primary Land Use	0303 MULTIFAMILY 10 UNITS PLUS : MULTIFAMILY 3 OR MORE UNITS
Beds / Baths / Half	12 / 12 / 0
Floors	2
Living Units	12
Actual Area	Sq.Ft
Living Area	Sq.Ft
Adjusted Area	6,739 Sq.Ft
Lot Size	13,000 Sq.Ft
Year Built	1952



Assessment Information			
Year	2022	2021	2020
Land Value	\$1,560,000	\$1,196,000	\$1,235,000
Building Value	\$10,000	\$184,000	\$335,000
XF Value	\$0	\$0	\$0
Market Value	\$1,570,000	\$1,380,000	\$1,570,000
Assessed Value	\$1,518,000	\$1,380,000	\$1,328,670

Benefits Information				
Benefit	Type	2022	2021	2020
Non-Homestead Cap	Assessment Reduction	\$52,000		\$241,330
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description	
7-8 54 41	
CORAL GABLES SEC B PB 5-111	
LOT 23 BLK 9	
LOT SIZE 13000 SQUARE FEET	
OR 21108-1998 0303 4	

Taxable Value Information			
	2022	2021	2020
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,518,000	\$1,380,000	\$1,328,670
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,570,000	\$1,380,000	\$1,570,000
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,518,000	\$1,380,000	\$1,328,670
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,518,000	\$1,380,000	\$1,328,670

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
04/29/2011	\$1,025,000	27677-0498	Qual by exam of deed
08/01/2005	\$1,900,000	23688-0159	Sales which are qualified
03/01/2003	\$0	21108-1998	Sales which are disqualified as a result of examination of the deed
04/01/1993	\$600,000	15903-1347	Sales which are qualified

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

CITY'S

EXHIBIT

1) 545 Coral Way

<b><u>Owner (Property Appraiser address)</u></b> Valencia 520 524 LLC 2550 S Douglas Road, Ste 301 Coral Gables, Fl 33134-6104	<b><u>Owner Sunbiz Registered Agent address</u></b> Valencia 520 524 LLC C/O Roberto Beraja Registered Agent 2550 S Douglas Road, Ste 300 Coral Gables, Fl 33134-6104
<b><u>Mortgagee (First Mortgage address)</u></b> Banco Popular North America a/k/a Popular Bank 9600 W. Bryn Mawr Rosemont, IL 60018-5226	<b><u>Mortgagee (Second Mortgage and BankFind address)</u></b> Banco Popular North America a/k/a Popular Bank 85 Broad Street, FL 10 New York, NY 10004-2787

CITY'S

EXHIBIT 2


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[Permits and Inspections: Search Results](#)
[Logon](#)   [Help](#)   [Contact](#)

## New Permit Search

### Permit Search Results

Permit#:	App. Date	Street Address	Type	Description	Status	Issue Date	Final Date	Fees Due
BL-19-07-5807	07/31/2019	545 CORAL WAY	ROOF / LIGHT WEIGHT CONC	**COM** RE ROOF-CERAMICA VERIA "SPANISH S" CLAY ROOF TILE COLOR: TERRA COTTA - \$40,000	final	08/06/2019	10/25/2019	0.00
AB-19-07-5367	07/23/2019	545 CORAL WAY	BOA COMPLETE (LESS THAN \$75,000)	**COM**RE ROOF CERAMICA VERIA "SPANISH S" CLAY COLOR: TERRA COTTA - \$40,000	final	07/23/2019	10/25/2019	0.00
PS-15-07-4913	07/10/2015	545 CORAL WAY	TREE REMOVAL/RELOCATION - PUBLIC SERVICE	REMOVE 1 ROYAL PALM STRUCK BY VEHICLE	final	07/10/2015	07/10/2015	0.00
PU-15-01-0584	01/15/2015	545 CORAL WAY	PUBLIC RECORDS SEARCH	REQ A CE OF PERMIT 11295	final	01/15/2015	01/15/2015	0.00
PS-14-10-4075	10/29/2014	545 CORAL WAY	TREE REMOVAL/RELOCATION - PUBLIC SERVICE	REMOVE ROYAL PALM STRUCK BY CAR	final	10/29/2014	10/29/2014	0.00
CE-14-07-3497	07/22/2014	545 CORAL WAY	CODE ENF WARNING PROCESS	WT20503 54-153 (DAY) CITY CODE - FOLLOW-UP TRASH OUT EARLY. IE. SOFA ON SWALE AREA NO VIOLATION FOUND	final	07/22/2014	07/22/2014	0.00
CE-14-07-3394	07/20/2014	545 CORAL WAY	CODE ENF WARNING PROCESS	WT20503 54-153 (DAY) CITY CODE TRASH OUT EARLY. IE. SOFA ON SWALE AREA	final	07/20/2014	07/20/2014	0.00
CE-13-11-2448	11/13/2013	545 CORAL WAY	CODE ENF LIEN SEARCH	LIEN SEARCH	final	11/15/2013	11/15/2013	0.00
CE-13-05-0680	05/13/2013	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	***CANCEL PER WILLIAM ORTIZ - OWNER HAS TAKEN MEASURE TO PREVENT PROBLEM OF VEH. PARKING ON THE GRASS AT HIS PROP. **** T45535 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPROVED SURFACE (IE LAWN NEXT TO BUILDING) CERT MAIL 91 7108 2133 3932 6023 5019	canceled	05/13/2013	05/28/2013	0.00
CE-13-03-1902	03/29/2013	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	***CANCEL PER WILLIAM ORTIZ - OWNER HAS TAKEN MEASURE TO	canceled	03/29/2013	05/28/2013	0.00

CITY'S

EXHIBIT 3

				PREVENT PROBLEM OF VEH. PARKING ON THE GRASS AT HIS PROP. **** T44577 SEC 5-1404 ZONING CODE PAK PARKING OF VEHICLE ON LAWN OF PROPERTY NEXT TO BUILDING. (FL.TAG V25 3IE)				
CE-12-11-0443	11/08/2012	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	*****CANCEL PER WILLIAM ORTIZ - OWNER HAS TAKEN MEASURE TO PREVENT PROBLEM OF VEH. PARKING ON THE GRASS AT HIS PROP. **** T4456 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPROVED SURFACE (IE FRONT LAWN) CERT MAIL 91 7108 2133 3932 7087 8374	canceled	11/08/2012	05/28/2013	0.00
CE-12-11-0420	11/08/2012	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	***CANCEL PER WILLIAM ORTIZ - OWNER HAS TAKEN MEASURE TO PREVENT PROBLEM OF VEH. PARKING ON THE GRASS AT HIS PROP. **** T4457 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPROVD SURFACE (IE FRONT LAWN) CERT MAIL 91 7108 2133 3932 7087 8381	canceled	11/08/2012	05/28/2013	0.00
CE-12-11-0073	11/02/2012	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T46449 SEC 5-1404 ZONING CODE PAK VEHICLE PARKED ON FRONT LAWN OF PROPERTY NEXT TO BUILDING. (FL TAG AMF V90).	final	11/02/2012	04/19/2013	0.00
CE-12-10-1850	10/29/2012	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T44454 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPROVED SURFACE (IE FRONT LAWN) CERT MAIL 91 7108 2133 3932 7088 0490	final	05/05/2022	05/05/2022	0.00
CE-12-10-0996	10/16/2012	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T46444 SEC 5-1404 ZONING CODE PAK PARKING OF VEHICLE (FL. TAG AMF V90) ON LAWN OF PROPERTY NEXT TO BUILDING.	final	10/16/2012	11/13/2012	0.00
RC-12-08-1989	08/30/2012	545 CORAL WAY	BLDG RECERT / CRB	RECERTIFICATION	final		08/30/2012	0.00
CE-12-08-1347	08/22/2012	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T42546 SEC 5-1404 ZONING CODE PAK PARKING OF VEHICLE ON LAWN OF PROPERTY.	final	08/22/2012	09/24/2012	0.00
EX-12-08-0393	08/07/2012	545 CORAL WAY	PERMIT EXTENSION & RENEWAL	RENEW PERMIT ZN 11107646	final	08/07/2012	08/07/2012	0.00
CE-12-04-7635	04/05/2012	545	CODE ENF TICKET	T46951 SEC 5-1404	final	04/05/2012	02/13/2013	0.00



		CORAL WAY	PROCESS - NO RUNNING FINE	ZONING CODE PAK PARKING OF VEHICLE ON LAWN (FL. TAG AXG X79)				
CE-12-03-8527	03/20/2012	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T46831 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPROVED SURFACE (IE FRONT LAWN) CERT MAIL 91 7108 2133 3932 7089 0673	final	03/20/2012	05/03/2012	0.00
CE-12-03-8460	03/13/2012	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T46828 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPROVED SURFACE (IE FRONT LAWN) CERT MAIL REG AGENT 91 7108 2133 3932 7089 0642 CERT MAIL	final	03/13/2012	05/03/2012	0.00
ZN-11-10-7646	10/28/2011	545 CORAL WAY	PAINT / RESURFACE FL / CLEAN	CLEAN/PAINT EXT WALLS SW 6162 (LT BEIGE) AND TRIM SW 6140 (BEIGE) \$2,200	final	10/28/2011	08/10/2012	0.00
CE-11-09-5990	09/12/2011	545 CORAL WAY	CODE ENF WARNING PROCESS	WT7083 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPROVED SURFACE (IE LAWN NEXT TO BUILDING)	final	09/12/2011	09/12/2011	0.00
CE-11-05-5348	05/03/2011	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T38015 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPRIVED SURFACE (I.E. GRASS ON SIDE OF BUILDING) ***CERT MAIL 91 7108 2133 3932 6251 2828*** CANCEL (NEW OWNERS)*****	canceled	05/03/2011	06/10/2011	0.00
CE-11-04-7012	04/27/2011	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T38008 5-1404 ZONING CODE (PAK) PARKING VEHICLE ON UNAPPROVED SURFACE (I.E. LAWN NEXT TO BLDG) ***CERT MAIL 91 7108 2133 3932 7380 1874*** CANCEL (NEW OWNERSHIP)*****	canceled	04/27/2011	06/10/2011	0.00
CE-10-11-3139	11/05/2010	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T37233 5-1404 ZONING CODE (PAK) VEHICLE PARKED IN GRASS/UNAPPROVED SURFACE - MULTIPLE CITATIONS ISSUED ON PROPERTY FOR SAME	final	11/05/2010	11/19/2010	0.00
CE-10-08-4953	08/30/2010	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T37795 CE TICKET 5- 1404 ZONING CODE (PAK) VEHICLE PARKED ON GRASS/UNAPPROVED SURFACE - PREVIOUS WARNINGS AND TICKET ISSUED	final	08/30/2010	09/20/2010	0.00
CE-10-08-4687	08/25/2010	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T37228 CE TICKET 5- 1404 ZONING CODE (PAK) VEHICLE PARKED ON	final	08/25/2010	09/20/2010	0.00


CE-10-08-4490	08/20/2010	545 CORAL WAY	CODE ENF WARNING PROCESS	GRASS/UNAPPROVED SURFACE WT14202 CE WARNING 5-1404 ZONING CODE (PAK) VEHCILES PARKED ON GRASS AND WALKWAY AREA/UNAPPROVED SURFACE	final	08/20/2010	08/20/2010	0.00
EL-10-07-5168	07/27/2010	545 CORAL WAY	ELEC COMMERCIAL / RESIDENTIAL WORK	ELETRICAL FOR AT&T TELEPHONE CABINET	final	07/27/2010	11/01/2010	0.00
PW-10-06-3454	06/01/2010	545 CORAL WAY	UTILITIES (AT & T) PERMIT	INSTALLTION OF CABINET, XBOX, CONDUIT AND NEW POLE	final	07/09/2010	10/12/2015	0.00
PW-10-03-3279	03/05/2010	545 CORAL WAY	UTILITIES (AT & T) PERMIT	INSTALLATION OF CABINET, XBOX, HANDHOLE AND UNDERGROUND CONDUIT PLANS WERE RESUBMITTED IN JUNE	canceled			0.00
CE-09-09-2564	09/20/2009	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T39405 5-1404 ZONING CODE (PAK) PARKING OR ALLOWING VEHICLE TO PARK ON LAWN OR OTHER UNAPPROVED SURFACE	final	09/20/2009	10/08/2009	0.00
CE-09-09-1772	09/06/2009	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T39371 5-1404 ZONING CODE (PAK) PARKING OF VEHICLE ON LAWN OR OTHER UNAPPROVED SURFACE.	final	09/06/2009	10/07/2009	0.00
CE-09-07-2857	07/20/2009	545 CORAL WAY	CODE ENF TICKET PROCESS - NO RUNNING FINE	T18003 5-1404 ZONING CODE (PAK) PARKING OR ALLOWING VEHICLE/S TO PARK ON LAWN OR OTHER UNAPPROVED SURFACES.	final	07/20/2009	08/20/2009	0.00
CE-09-07-2791	07/19/2009	545 CORAL WAY	CODE ENF WARNING PROCESS	WT79073 5-1404 ZONING CODE (PAK) PARKING OR ALLOWING VEHICLES TO PARK ON LAWN OR OTHER UNAPPROVED SURFACE	final	07/19/2009	07/19/2009	0.00
PW-09-01-2178	01/22/2009	545 CORAL WAY	UTILITIES (AT & T) PERMIT	INSTALLATION OF CABINET AND CONDUIT \$546.00	pending			0.00
PS-08-09-0246	09/04/2008	545 CORAL WAY	TREE REMOVAL/RELOCATION - PUBLIC SERVICE	REMOVE 1 DYING OAK TREE	final	09/04/2008	09/04/2008	0.00

The City's online services are protected with an **SSL encryption certificate**. For technical assistance, please call 305-569-2448 (8am-5pm M-F).

0341080011561

 Summary

 Details

 Addresses (1)

 Additional Info

 Linked Records

 Holds

 Parcel Contacts

 Files

PERMITS (1)

Permit...	Permit Type	Permit...	Permit...	Applic... ↓
<u>RECT-22-07-0090</u>	Building Recertification	Recertification	Denied	07/25/2022



## The City of Coral Gables

Development Services Department  
CITY HALL 405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134

August 31, 2012

Valencia 520 524, LLC  
2550 Douglas Road, #301  
Coral Gables, FL 33134

### **LETTER OF BUILDING RECERTIFICATION IN ACCORDANCE WITH SECTION 8-11(f) OF THE CODE OF MIAMI-DADE COUNTY**

**PROPERTY FOLIO: # 03-4108-001-1561**  
**ADDRESS: 545 Coral Way, Coral Gables, FL**

Dear Property Owner/Manager:

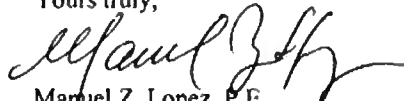
This Office is in receipt of your structural and electrical report stating that the above referenced building has been examined and found to be structurally and electrically safe for its continued occupancy.

Based on acceptance of this report, we herewith grant this LETTER OF RECERTIFICATION for the above subject premises in accordance with Section 8-11(f) of the Code of Miami-Dade County.

The expiration date of this approval, as stated in said Code, is 10 years from 2012. This recertification letter does not exclude the building from subsequent inspections as deemed necessary by the Building Official, as specified in the Florida Building Code.

As a routine matter, and in order to avoid possible misunderstanding, nothing in this letter should be construed directly, or indirectly as a guarantee of the safety of any portion of this structure. However, based on the term stated in Section 8-11(f) of the Code, continued occupancy of the building will be permitted in accordance with the minimum procedural guidelines for the recertification structural/electrical report on file with this office.

Yours truly,

  
Manuel Z. Lopez, P.E.  
Building Official

CITY'S

EXHIBIT

4



The City of Coral Gables

Development Services Department  
CITY HALL 405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134

1/3/2022

VIA CERTIFIED MAIL

7020 3160 0001 1022 3431

VALENCIA 520 524 LLC  
2050 DOUGLAS RD #301  
CORAL GABLES, FL 33134

RE: 545 CORAL WAY  
FOLIO # 03-4108-001-1561

Notice of Required Inspection For Recertification of 40 Years or Older Building

Dear Property Owner:

Per the Miami-Dade County Property Appraiser's office the above referenced property address is forty (40) years old, or older, having been built in 1952. In accordance with the Miami-Dade County Code, Chapter 8, Section 8-11(f), a Florida Registered Architect or Professional Engineer must inspect said building and a **completed** Recertification Report ("Report") must be submitted by you to this Department within **ninety (90) calendar days** from the **date of this letter**. A completed Report includes 1) cover letter(s) stating the structure meets (or does not meet) the electrical and structural requirements for recertification, 2) Building Structural Report, 3) Building Electrical Report, 4) Parking Lot Illumination Standards Form and 5) Parking Lot Guardrails Requirements Form. Note all paperwork submitted must be the original signed and sealed documents (no copies). Submittal of the Report does not constitute recertification; it must be **approved** by this Department and the Letter of Recertification must be issued.

Once a completed Report is submitted to this Department and repairs or modifications are found to be necessary, the Building Official is able to grant an extension of one hundred fifty (150) calendar days from the date of this letter to obtain the necessary permits and perform the repairs. The structure will be recertified once a *revised* Report is submitted and approved, and all required permits are closed.

The Architect or Engineer may obtain the required Form, "*Minimum Inspection Procedural Guidelines for Building Recertification*," from the following link: [http://www.miamidade.gov/pa/property\\_recertification.asp](http://www.miamidade.gov/pa/property_recertification.asp). **The Recertification Report fee of \$500.00 and additional document and filing fees shall be submitted to the Development Services Department, 405 Biltmore Way, 3<sup>rd</sup> Floor, Coral Gables, Florida, 33134. In order to avoid delays submit in person in order to calculate the fees accordingly.**

Failure to submit the required Report within the allowed time will result in **declaring the structure unsafe** and referring the matter to the City's Construction Regulation Board ("Board") without further notice; a \$600.00 administrative fee will be imposed at that time. The Board may impose additional fines of \$250.00 for each day the violation continues, may enter an order of demolition, and may assess all costs of the proceedings along with the cost of demolition and any other required action.

The completed Report may be submitted Monday through Friday, 7:30am to 3:20pm to this Department. Contact Virginia Goizueta at [vgoizueta@coralgables.com](mailto:vgoizueta@coralgables.com) if any questions regarding building recertification.

Thank you for your prompt attention to this matter.

Manuel Z. Lopez, P.E.  
Building Official

CITY'S

EXHIBIT

5



## The City of Coral Gables

Development Services Department  
CITY HALL 405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134

1/3/2022

**VIA CERTIFIED MAIL**

7020 3160 0001 1022 3431

VALENCIA 520 524 LLC  
2050 DOUGLAS RD #301  
CORAL GABLES, FL 33134

**RE: 545 CORAL WAY**  
**FOLIO # 03-4108-001-1561**

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Thank you for your prompt attention to this matter.

Manuel Z. Lopez, P.E.  
Building Official



THE CITY OF CORAL GABLES  
DEVELOPMENT SERVICES DEPARTMENT  
405 BILTMORE WAY  
P.O. BOX 141549  
CORAL GABLES, FLORIDA 33114-1549

CERTIFIED MAIL



7020 3160 0001 1022 3431



VALENCIA 520524 LLC  
2050 DOUGLAS RD #301  
CORAL GABLES, FL. 33134

NIXIE

331 DE 1 0001/11/22

RETURN TO SENDER  
NO SUCH NUMBER  
UNABLE TO FORWARD

IA K1: 9333120009

NSN 3311415499

BC: 3311415499 \*0806-04254-04-44



Track Another Package +

Tracking Number: 70203160000110223431

Remove X

Your item has been delivered to the original sender at 10:13 am on January 13, 2022 in CORAL GABLES, FL 33114.

USPS Tracking Plus® Available ▾

 **Delivered, To Original Sender**

January 13, 2022 at 10:13 am  
CORAL GABLES, FL 33114

Feedback

Get Updates ▾

Text & Email Updates	▾
Tracking History	▾
USPS Tracking Plus®	▾
Product Information	▾

See Less ^

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### FAQs

Feedback



## The City of Coral Gables

Development Services Department

CITY HALL 405 BILTMORE WAY

CORAL GABLES, FLORIDA 33134

1/18/2022

**VIA CERTIFIED MAIL**

7020 3160 0001 1022 0591

VALENCIA 520 524 LLC  
2550 DOUGLAS RD #301  
CORAL GABLES, FL 33134

**RE: 545 CORAL WAY**  
**FOLIO # 03-4108-001-1561**

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The Architect or Engineer may obtain the required Form, "*Minimum Inspection Procedural Guidelines for Building Recertification*," from the following link: [http://www.miamidade.gov/pa/property\\_recertification.asp](http://www.miamidade.gov/pa/property_recertification.asp). **The Recertification Report fee of \$500.00 and additional document and filing fees shall be submitted to the Development Services Department, 405 Biltmore Way, 3<sup>rd</sup> Floor, Coral Gables, Florida, 33134. In order to avoid delays submit in person in order to calculate the fees accordingly.**

Failure to submit the required Report within the allowed time will result in **declaring the structure unsafe** and referring the matter to the City's Construction Regulation Board ("Board") without further notice; a \$600.00 administrative fee will be imposed at that time. The Board may impose additional fines of \$250.00 for each day the violation continues, may enter an order of demolition, and may assess all costs of the proceedings along with the cost of demolition and any other required action.

The completed Report may be submitted Monday through Friday, 7:30am to 3:20pm to this Department. Contact Virginia Goizueta at [vgoizueta@coralgables.com](mailto:vgoizueta@coralgables.com) if any questions regarding building recertification.

Thank you for your prompt attention to this matter.

Manuel Z. Lopez, P.E.  
Building Official

Track Another Package +

Tracking Number: 70203160000110220591

Remove X

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

USPS Tracking Plus® Available ▾

In Transit to Next Facility

January 27, 2022

Feedback

Get Updates ▾

Text & Email Updates	▾
Tracking History	▾
USPS Tracking Plus®	▾
Product Information	▾

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

## FAQs

Feedback





## The City of Coral Gables

Development Services Department  
CITY HALL 405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134  
VALENCIA 520 524 LLC  
2550 DOUGLAS RD #301  
CORAL GABLES, FL. 33134

4/18/2022

7021 2720 0001 4959 2506

**RE:** 545 CORAL WAY  
**FOLIO #** 03-4108-001-1561

### Notice of Required Inspection For Recertification of 40 Years or Older Building – **SECOND NOTICE**

Dear Property Owner:

In a certified letter dated 1/18/2022, this Department notified you the property referenced above requires Building Recertification pursuant to Miami-Dade County Code, Chapter 8, Section 8-11(f). The letter informed you it was necessary to submit to this Department a completed Report prepared by a licensed architect or engineer within ninety (90) calendar days certifying the structure meets the requirements for recertification provided under the Minimum Inspection Procedural Guidelines for Building Recertification.

Please be advised the submittal of the Report is overdue and the **structure has been deemed unsafe** due to non-compliance. This may result in the revocation of the Certificate of Occupancy, as well as, being subject to other penalties as provided in the Code. A completed Report includes: 1) cover letter(s) stating the structure meets the electrical and structural requirements for recertification from a Florida Registered Architect or Professional Engineer that inspects said building, 2) Building Structural Report, 3) Building Electrical Report, 4) Parking Lot Illumination Standards Form and 5) Parking Lot Guardrails Requirements Form; no additional documents or photographs are necessary. Note all paperwork submitted must be the original signed and sealed documents (no copies). **Additionally you will need to register in the new permitting system to submit report, see the instructions attached.**

**Failure to submit the completed Report within thirty (30) calendar days from the date of this letter will result in forwarding the matter to the City's Construction Regulation Board for further review and determination.** The completed Report may be submitted Monday through Friday, 7:30am to 2:30pm to this Department. Contact Virginia Goizueta at [vgoizueta@coralgables.com](mailto:vgoizueta@coralgables.com) if any questions regarding building recertification.

Please govern yourself accordingly.

Sincerely,

Manuel Z. Lopez, P.E.  
Deputy Building Official

Track Another Package +

Tracking Number: 70212720000149592506

Remove X

Your item was delivered to the front desk, reception area, or mail room at 1:19 pm on April 14, 2022 in MIAMI, FL 33134.

USPS Tracking Plus® Available ∨

 **Delivered, Front Desk/Reception/Mail Room**

April 14, 2022 at 1:19 pm  
MIAMI, FL 33134

Feedback

Get Updates ∨

Text & Email Updates	∨
Tracking History	∨
USPS Tracking Plus®	∨
Product Information	∨

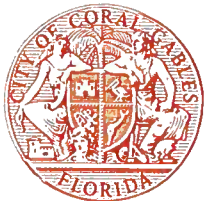
See Less ^

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**FAQs**

Feedback



## The City of Coral Gables

Development Services Department

CITY HALL 405 BILTMORE WAY

CORAL GABLES, FLORIDA 33134

6/9/2022

VALENCIA 520 524 LLC  
2550 DOUGLAS RD #301  
CORAL GABLES, FL 33134

7021 1970 0000 4016 1746

**RE: 545 CORAL WAY**

**FOLIO # 03-4108-001-1561**

Notice of Required Inspection For Recertification of 40 Years or Older Building – **FINAL NOTICE**

Dear Property Owner:

In a certified letter dated 1/18/2022, this Department notified you the property referenced above requires Building Recertification pursuant to Miami-Dade County Code, Chapter 8, Section 8-11(f). A Second Notice, dated 4/18/2022, informed you it was necessary to submit to this Department a completed Report prepared by a licensed architect or engineer within thirty (30) calendar days certifying the structure meets the requirements for recertification provided under the Minimum Inspection Procedural Guidelines for Building Recertification.

As of this date, the completed Report has not been submitted and the **structure remains unsafe** due to non-compliance. Please be advised the matter will be forwarded to the City's Construction Regulation Board ("Board"); a \$600.00 Administrative Fee will be imposed once the Case is scheduled. The Board may impose additional fines of \$250.00 for each day the violation continues, may also enter an order of revocation of the Certificate of Occupancy and/or demolition and assess all costs of the proceedings along with the cost of demolition and any other required action for which the City shall have a lien against the Property Owner and the Property. The completed Report may be submitted Monday through Friday, 7:30am to 2:30pm to this Department. Contact Virginia Goizueta at [vgoizueta@coralgables.com](mailto:vgoizueta@coralgables.com) if any questions regarding building recertification.

Please govern yourself accordingly.

Sincerely,

A handwritten signature in blue ink, appearing to read "Manuel Z. Lopez", with a stylized flourish at the end.

Manuel Z. Lopez, P.E.  
Building Official

[Track Another Package](#) +**Tracking Number:** 70211970000040161746[Remove](#) X

Your item was delivered to an individual at the address at 1:27 pm on June 13, 2022 in MIAMI, FL 33134.

**USPS Tracking Plus® Available** ✓**✓ Delivered, Left with Individual**

June 13, 2022 at 1:27 pm  
MIAMI, FL 33134

[Feedback](#)**Get Updates** ✓**Text & Email Updates****Tracking History****USPS Tracking Plus®****Product Information****See Less** ^

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

### FAQs

Feedback



## Goizueta, Virginia

---

**From:** Nayrubit Hernandez <nhernandez@bluebaypm.com>  
**Sent:** Wednesday, June 22, 2022 11:24 AM  
**To:** Goizueta, Virginia  
**Subject:** 40 y final notice

**CAUTION:** External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Virginia we received a final notice to make inspections on :

~~520 Valencia Folio 03-4117-008-2290~~

545 Coral Way Folio 03-4108-001-1561

Were scheduled for next Monday 06/27 we could go to your office the same day to submitted,  
We can wait for this day?

Let me know, thanks in advance,  
Nayrubit Hernandez PM



July 10, 2022

City of Coral Gables  
Building Department  
405 Biltmore Way  
Coral Gables, FL 33134

RE: Request for extension of 40 years recertification.

Property Address: **545 CORAL WAY, CORAL GABLES, FL 33134**  
Folio No. : **03-4108-001-1561**  
Owner name: **VALENCIA 520 524 LLC**

Building Official:

We are writing you with the intension to request a 60 days extension for the above mentioned property. We were hired by the owner of the building and we are working in order to finish the 40 year re-certification of the building.

I, Roberto Barreiro, P.E. with registration in the State of Florida, based on the conditions observed during the inspections performed, hereby attest to the best of my knowledge, belief and professional judgment, that the subject building is structurally and electrically safe for the specified use for continued occupancy during the time that the recertification is in process to be finished.

Should you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,



Digitally signed by  
Roberto Barreiro  
DN: c=US, o=B and  
A ENGINEERING  
SERVICES INC,  
ou=A01410D00000  
173DB4512A40003  
7974, cn=Roberto  
Barreiro  
Date: 2022.07.15  
12:01:31 -04'00'

Roberto Barreiro, P.E. #68383  
President

***B&A Engineering Services***  
**Certificate of Authorization License #30933**  
**15053 SW 57th Street**  
**Miami, Florida 33193**  
**TEL: 786.473.5813**

**545 CORAL WAY, CORAL GABLES, FL 33134  
ISSUES TO ADDRESS--SUPPORTING PICTURES**

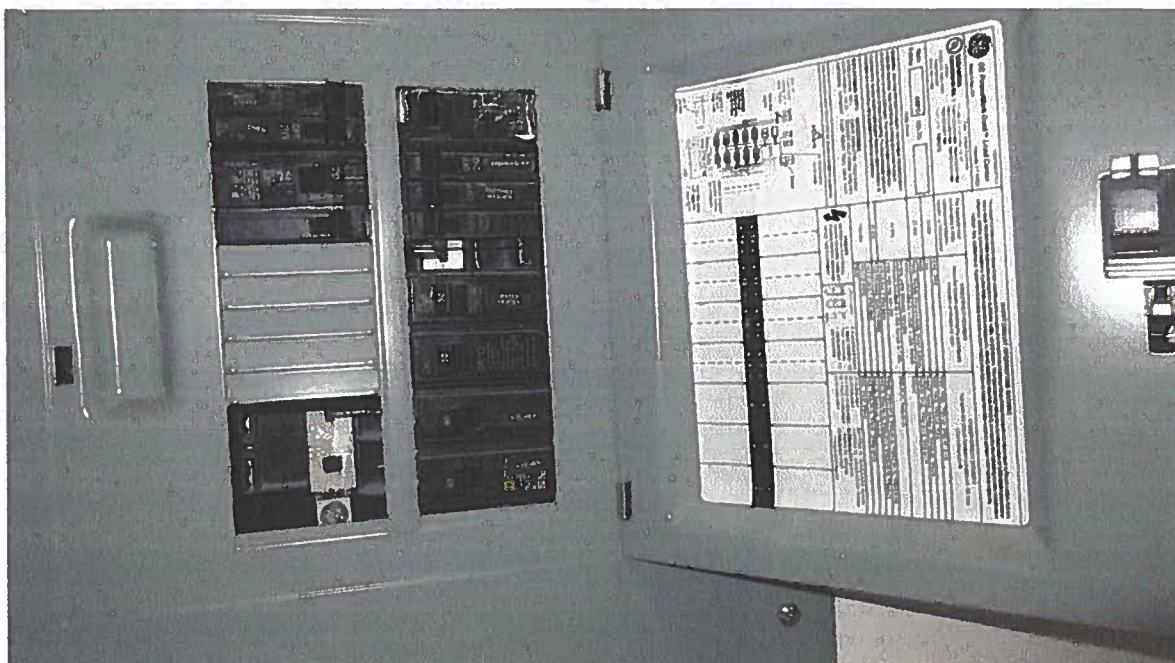


**BREAKERS IN ALL PANELS MUST BE IDENTIFIED.**



**BREAKERS IN ALL PANELS MUST BE IDENTIFIED.**

**545 CORAL WAY, CORAL GABLES, FL 33134  
ISSUES TO ADDRESS---SUPPORTING PICTURES**



**BREAKERS IN ALL PANELS MUST BE IDENTIFIED. OPEN SPACES IN PANELS MUST BE COVERED.**



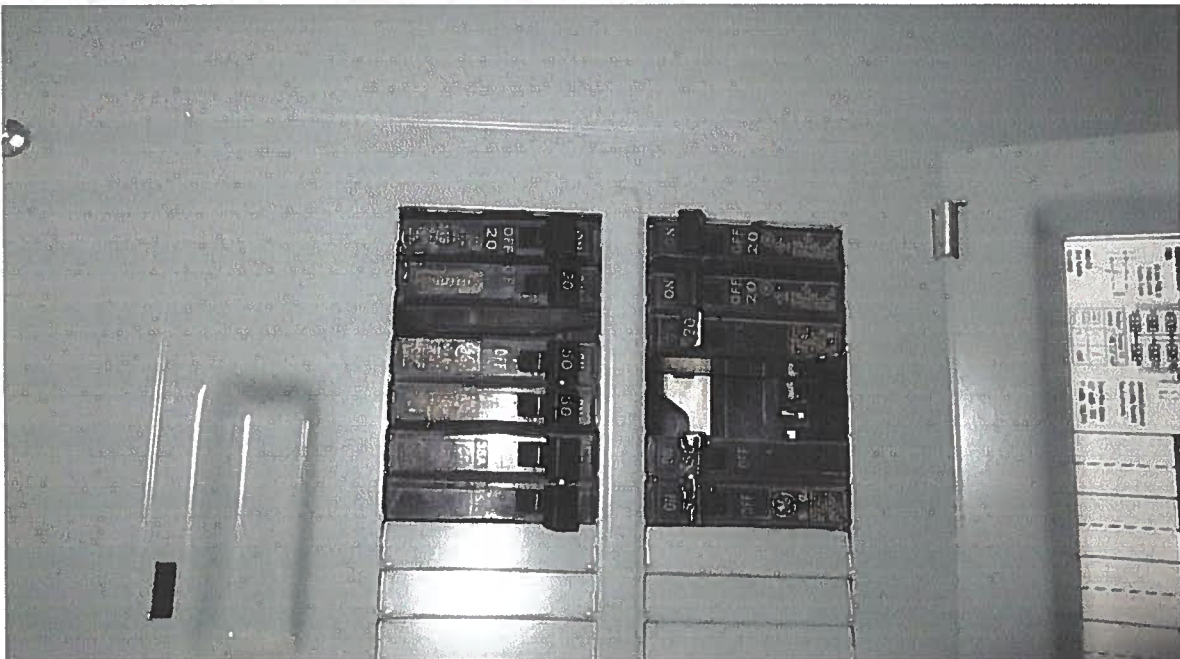
**BREAKERS IN ALL PANELS MUST BE IDENTIFIED.**



**545 CORAL WAY, CORAL GABLES, FL 33134  
ISSUES TO ADDRESS---SUPPORTING PICTURES**



**FIRE ALARM PANEL WITH ANNUAL INSPECTION PAST DUE (AS PER TAG, LAST INSPECTION WAS PERFORMED ON MARCH, 2020).**

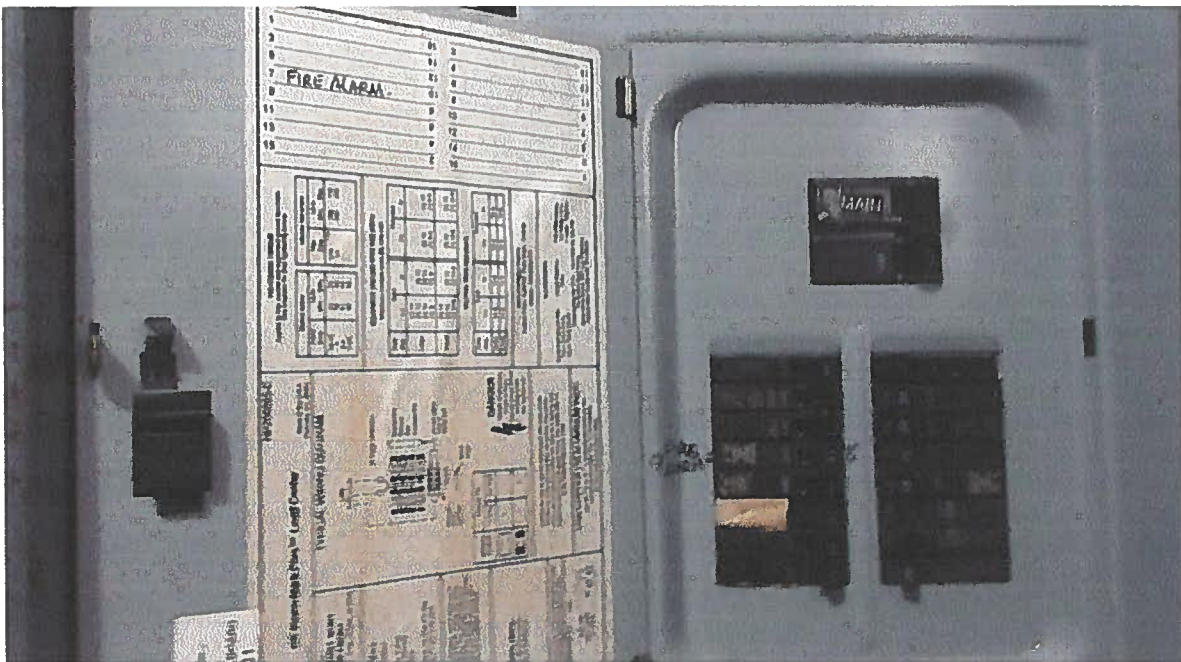


**BREAKERS IN ALL PANELS MUST BE IDENTIFIED. OPEN SPACES IN PANELS MUST BE COVERED.**

**545 CORAL WAY, CORAL GABLES, FL 33134  
ISSUES TO ADDRESS---SUPPORTING PICTURES**



**EXPOSED WIRES DUE TO BROKEN LAMP.**



**ELECTRICAL ROOM: ALL BREAKERS IN HOUSE PANEL MUST BE IDENTIFIED.**



**545 CORAL WAY, CORAL GABLES, FL 33134  
ISSUES TO ADDRESS---SUPPORTING PICTURES**



**TYPICAL CRACKS FOUND IN EXTERIOR WALLS (SEVERAL WERE VISIBLE).**



**DAMAGED STEP OF STAIR (TRIP HAZARD) MUST BE REPAIRED.**

## Goizueta, Virginia

---

**From:** Goizueta, Virginia  
**Sent:** Friday, July 15, 2022 11:22 AM  
**To:** Nayrubit Hernandez  
**Subject:** RE: 40 y final notice

Good morning,

The properties of 545 Coral Way and 520 Valencia Ave are being scheduled for the August 8, 2022 meeting due to non-compliance.

If you have the reports, please submit them to me by Tuesday, July 19<sup>th</sup>, in order to avoid the Board's \$ 600 dollar fee.

*Virginia Goizueta*

*Building Service Coordinator*  
*City of Coral Gables*  
Development Services Department  
405 Biltmore Way, 3rd Floor  
Coral Gables, Florida 33134  
Office: 305-460-5250

**From:** Nayrubit Hernandez <nhernandez@bluebaypm.com>  
**Sent:** Wednesday, June 22, 2022 11:24 AM  
**To:** Goizueta, Virginia <vgoizueta@coralgables.com>  
**Subject:** 40 y final notice

**CAUTION:** External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Virginia we received a final notice to make inspections on :

520 Valencia Folio 03-4117-008-2290  
545 Coral Way Folio 03-4108-001-1561

Were scheduled for next Monday 06/27 we could go to your office the same day to submitted,  
We can wait for this day?

Let me know, thanks in advance,  
Nayrubit Hernandez PM

**BEFORE THE CONSTRUCTION REGULATION BOARD**  
**FOR THE CITY OF CORAL GABLES**

CITY OF CORAL GABLES,  
Petitioner,

Case No. 22-4461

vs.

Return receipt number:

Valencia 520 524 LLC  
2550 S Douglas Road, Ste 301  
Coral Gables, FL 33134-6104  
Respondent.

7021 1970 0000 4016 0268

**NOTICE OF UNSAFE STRUCTURE VIOLATION FOR FAILURE TO RECERTIFY  
AND NOTICE OF HEARING**

Date: July 27, 2022

Re: 545 CORAL WAY, CORAL GABLES, FL. 33134-4923 LEGAL DESCRIPTION: LOT 23, BLOCK 9, CORAL GABLES SEC. B PLAT BOOK 5 PAGE 111 FOLIO NO.: 03-4108-001-1561 ("Property")

The City of Coral Gables ("City") Building Official has inspected the records relating to the Structure in accordance with Article III, Chapter 105 of the City Code, pertaining to unsafe structures, and Section 8-11 of the Miami-Dade County Code, as applicable in the City, pertaining to existing buildings. **The Structure is hereby declared unsafe** by the Building Official and is presumed unsafe pursuant to Section 105-186(j)(13) of the City Code for failure to timely comply with the maintenance and recertification requirements of the Florida Building Code or Section 8-11 of the Miami-Dade County Code.

**Therefore, this matter is set for hearing before the City's Construction Regulation Board ("Board") in the Commission Chambers, City Hall, 405 Biltmore Way, 2<sup>nd</sup> Florida, Coral Gables, Florida 33134, on August 8, 2022, at 2:00 p.m.**

You may appeal the decision of the Building Official to the Board by appearing at the hearing. You have the right to be represented by an attorney and may present and question witnesses and evidence; however, formal rules of evidence shall not apply. Failure to appear at the hearing will result in the matter being heard in your absence. Please be advised that if someone other than an attorney will be attending the hearing on your behalf, he or she must provide a power of attorney from you at the time of the hearing. Requests for continuance must be made in writing to, Secretary to Virginia Goizueta the Board, at City of Coral Gables, Development Services Department, 405 Biltmore Way, 3<sup>rd</sup> Floor, Coral Gables, FL 33134, vgoizueta@coralgables.com, tel: (305) 460-5250. The Development Services Department's hours are Monday through Friday, 7:30 a.m. to 2:30 p.m.

If the Required Action is not completed before the above hearing date, the Building Official may order that the structure be vacated, boarded, secured, and posted (including but not limited to, requesting the electric utility to terminate service to the Structure) to prevent further occupancy until the Required Action is completed. The Building Official may also order demolition of the Structure and the City may recover the costs incurred against the Property and the Owner of record.

**CITY'S**

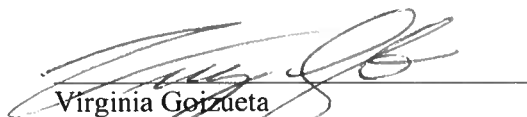
**EXHIBIT**

6



If the Property owner or other interested party does not take all Required Action or prevail at the hearing, the Construction Regulation Board may impose fines not to exceed \$250 for each day the violation continues past the date set for compliance and may also enter an order of demolition and assess all costs of the proceedings, in an amount not less than \$600, and the costs of demolition and other required action, for which the City shall have a lien against the Property owner and the Property.

Please govern yourself accordingly.



Virginia Goizueta  
Secretary to the Board

#### ADA NOTICES

Any person who acts as a lobbyist pursuant to the City of Coral Gables Ordinance No. 2006-11, must register with the City Clerk, prior to engaging in lobbying activities before the city staff, boards, committees and/or the City Commission. A copy of the Ordinance is available in the Office of the City Clerk, City Hall.

**Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Board, with respect to any matter considered at such hearing or meeting, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based. Although a court reporter usually attends the hearing at the City's cost, the City is not required to provide a transcript of the hearing, which the Respondent may request at the Respondent's cost.**

Any person who needs assistance in another language in order to speak during the public hearing or public comment portion of the meeting should contact the City's ADA Coordinator, Raquel Elejabarrieta, Esq., Director of Labor Relations and Risk Management (E-mail: [relejabarrieta@coralgables.com](mailto:relejabarrieta@coralgables.com), Telephone: 305-722-8686, TTY/TDD: 305-442-1600), at least three (3) business days before the meeting.

Any person with a disability requiring communication assistance (such as a sign language interpreter or other auxiliary aide or service) in order to attend or participate in the meeting should contact the City's ADA Coordinator, Raquel Elejabarrieta, Esq., Director of Labor Relations and Risk Management (E-mail: [relejabarrieta@coralgables.com](mailto:relejabarrieta@coralgables.com), Telephone: 305-722-8686, TTY/TDD: 305-442-1600), at least three (3) business days before the meeting.

C: Valencia 520 524 LLC., C/O Roberto Beraja, Registered Agent, 2550 S Douglas Road, Ste 300, Coral Gables, FL 33134-6104; Banco Popular North America a/k/a Popular Bank, 9600 W. Bryn Mawr, Rosemont, IL 60018-5226 : Banco Popular North America a/k/a Popular Bank, 85 Broad Street, FL 10, New York, NY 10004-2787



CITY OF CORAL GABLES  
DEVELOPMENT SERVICES DEPARTMENT  
Affidavit of Posting

Case #: 22-4461

Title of Document Posted: Construction Regulation Board, Notice of Unsafe Structure Violation For Failure To Recertify and Notice of Hearing

I, JOSE IGLESIAS, DO HEREBY SWEAR/AFFIRM THAT  
THE AFOREMENTIONED NOTICE WAS PERSONALLY POSTED, BY ME, AT THE  
ADDRESS OF 545 Coral Way, ON July 27, 2022 AT 9:04 AM AND WAS  
ALSO POSTED AT CITY HALL.

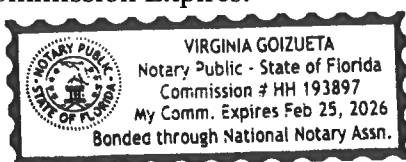
JOSE IGLESIAS  
Employee's Printed Name

[Signature]  
Employee's Signature

STATE OF FLORIDA )  
ss.  
COUNTY OF MIAMI-DADE )

Sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online  
notarization, this 27 day of July, in the year 2022, by  
\_\_\_\_\_ who is personally known to me.

My Commission Expires:



[Signature]  
Notary Public

CITY'S

EXHIBIT

7



545 Coral Way

CITY'S

EXHIBIT 8







CFN 2011R0292044  
OR Bk 27677 Pgs 0498 - 499; (2pgs)  
RECORDED 05/04/2011 15:59:53  
DEED DOC TAX 6,150.00  
SURTAX 4,612.50  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**THIS INSTRUMENT PREPARED BY:**

Jose J. Leonardo, Esq.  
500 S. Dixie Highway  
Suite 204  
Coral Gables, FL 33146  
(305) 275-9177

Property Folio Number: 03-4108-001-1561  
Purchase Price: \$1,025,000.00  
Documentary Stamps: \$6,150.00  
Surtax Stamps: \$4,612.50

---

**WARRANTY DEED**

**THIS WARRANTY DEED**, made the 29th day of April, 2011 A.D., by **Savanna Builders, Inc., a Florida Corporation** (hereinafter referred to as the "Grantor"), whose post office address is: 4444 SW 71<sup>st</sup> Avenue, Suite 107, Miami, Florida 33155, to **Valencia 520-524, LLC, a Florida Limited Liability Company**, (hereinafter referred to as the "Grantee"), whose post office address is: 2050 Douglas Road Suite 301, Coral Gables, Florida 33134

**(Wherever used herein the terms "Grantor" and "Grantee" shall include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations)**

**WITNESSETH:** That the Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land situated in Miami-Dade County, State of Florida, viz:

**Lot 23 in Block 9 of CORAL GABLES, SECTION B, according to the Plat thereof, as recorded in Plat Book 5, at Page 111, of the Public Records of Miami-Dade County, Florida.**

Subject to all conditions, covenants, limitations, restrictions and easements of record, if any, taxes for the year 2011 and subsequent years.

**TOGETHER**, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD**, the same in fee simple forever.

CITY'S

EXHIBIT 9



And, the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all person whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2010.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, Sealed and Delivered  
In presence of:

Print Name: Milly Peras

Print Name: Jose J. Leonardo

SAVANNA BUILDERS, INC.,  
A FLORIDA CORPORATION

By: Jorge L. Guerra, President

4444 SW 7th Ave. #107 Miami FL 33155

(SEAL)

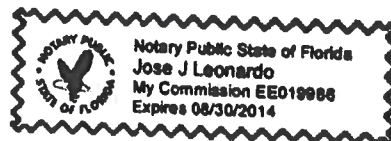
STATE OF FLORIDA           )  
  )SS:  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 29th day of April, 2011, by Jorge L. Guerra, President of Savanna Builders, Inc., a Florida Corporation, on behalf of the corporation, who is personally known to me or who has \_\_\_\_\_ as identification and who did not take oath.

NOTARY PUBLIC

State of Florida t Large (SEAL)

My Commission expires:





[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Florida Limited Liability Company  
VALENCIA 520-524, LLC

### Filing Information

**Document Number** L10000114409  
**FEI/EIN Number** 27-3939406  
**Date Filed** 11/02/2010  
**State** FL  
**Status** ACTIVE

### Principal Address

2550 S DOUGLAS ROAD  
SUITE 300  
CORAL GABLES, FL 33134

Changed: 02/17/2022

### Mailing Address

2550 S DOUGLAS ROAD  
SUITE 300  
CORAL GABLES, FL 33134

Changed: 02/17/2022

### Registered Agent Name & Address

BERAJA, ROBERTO  
2550 S DOUGLAS ROAD  
SUITE 300  
CORAL GABLES, FL 33134

Name Changed: 04/30/2021

Address Changed: 02/17/2022

### Authorized Person(s) Detail

#### **Name & Address**

Title GP

BERAJA INVESTMENTS II, LTD  
2550 S DOUGLAS ROAD  
SUITE 300  
CORAL GABLES, FL 33134

Title MGR

BERAJA, ROBERTO  
2550 S DOUGLAS ROAD  
SUITE 300  
CORAL GABLES, FL 33134

**Annual Reports**

<b>Report Year</b>	<b>Filed Date</b>
2020	02/24/2020
2021	04/30/2021
2022	02/17/2022

**Document Images**

<a href="#">02/17/2022 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/30/2021 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/24/2020 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/29/2019 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/16/2018 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/21/2017 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/03/2016 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/09/2015 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/18/2014 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/01/2013 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/13/2012 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/18/2011 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">11/02/2010 -- Florida Limited Liability</a>	<a href="#">View image in PDF format</a>

<  BankFind Suite Home

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# Popular Bank



## Institution Details

Data as of 07/22/2022



**FDIC Insured**  
Since 01/02/1999

**FDIC Cert #**  
34967

**Established**  
01/02/1999

**Bank Charter Class**  
State Chartered Banks, member of  
the Federal Reserve System (FRS)

**Primary Federal Regulator**  
Federal Reserve Board

**Secondary Federal Regulator**  
CFPB

**Main Office Address**  
85 Broad Street  
New York, NY 10004

**Primary Website**  
[www.popularbank.com](http://www.popularbank.com)

**Locations**  
43 domestic locations: 3 states and  
0 territories.  
0 in foreign locations.

**Financial Information**  
[Create financial reports for this  
institution](#)

**Consumer Assistance**  
[Federal Reserve Consumer Help](#)

**Contact the FDIC**  
[Popular Bank](#)

Get additional detailed information by selecting from the following:

Locations

History

Institution Profile

Other Names

43 Branch Offices

Hide ^

Results

25 ▼



1

2



Page #

Go

Address

85 Broad  
Street

62141	Main Office	Popular Bank	New York, NY 10004	new york	new york	NY
			500 Bloomfield Avenue Newark, NJ 07107	Newark	Essex	NJ
55350	1	Bloomfield Branch				
			8501 Kennedy Blvd North Bergen, NJ 07047	North Bergen	Hudson	NJ
290259	5	North Bergen Branch				
			53-10 Bergen Line Avenue West New York, NJ 07093	West New York	Hudson	NJ
290260	6	Bergenline Branch				
			817 Elizabeth Avenue Elizabeth, NJ 07201	Elizabeth	Union	NJ
290261	7	Elizabeth Avenue Branch				
			15-25a Graham Avenue New York City, NY 11206	New York City	Kings	NY
239276	51	Graham Avenue Branch				
			164 East 116th Street New York City, NY 10029	New York City	New York	NY
239277	52	116th Street Branch				

239284	53	Jackson Heights Branch	85-20122 Baxter Avenue New York City, NY 11373	New York City	Queens	NY
239285	54	Washington Heights Branch	615 West 181st Street New York City, NY 10033	New York City	New York	NY
239290	56	Columbus Avenue Branch	730 Columbus Avenue New York, NY 10025	New York	New York	NY
239292	57	East Tremont Branch	645 East Tremont Ave Bronx, NY 10457	Bronx	Bronx	NY
237096	59	Delancey Street Branch	134 Delancey Street New York City, NY 10002	New York City	New York	NY
236695	60	Pitkin Avenue Branch	1620 Pitkin Avenue New York City, NY 11212	New York City	Kings	NY
239406	62	149th Street Branch	374 East 149th Street Bronx, NY 10455	Bronx	Bronx	NY

239409	64	170th Street Branch	4043 Broadway New York, NY 10032	New York	New York	NY
239417	65	Forest Hills Branch	71-24 Austin Street Forest Hills, NY 11375	Forest Hills	Queens	NY
239419	66	Fifth Avenue Branch	4502 Fifth Avenue Brooklyn, NY 11220	Brooklyn	Kings	NY
239443	67	Steinway St Branch	30-26 Steinway Street Long Island City, NY 11103	Long Island City	Queens	NY
239456	68	Seneca Avenue Branch	918 Seneca Avenue Ridgewood, NY 11385	Ridgewood	Queens	NY
236731	69	Sheepshead Bay Branch	1619 Sheepshead Bay Road New York City, NY 11235	New York City	Kings	NY
236732	70	14th Street	43 West 14th Street New York, NY 10011	New York	New York	NY
222967	71	Dyckman Branch	180 Dyckman Street New York	New York City	New York	NY

			NEW YORK City, NY 10040	City		
236300	74	West 125th Street Branch	231 West 125th Street New York City, NY 10027	New York City	New York	NY
235962	75	E Parkway/Nostrand Branch	539 Eastern Parkway New York City, NY 11216	New York City	Kings	NY
183516	76	Fordham Branch	301 East Fordham Road New York City, NY 10460	New York City	Bronx	NY





CFN 2014R0063055  
OR Bk 29004 Pgs 4118 - 4137; (20pgs)  
RECORDED 01/27/2014 13:10:40  
MTG DOC TAX 3,083.50  
INTANG TAX 1,762.00  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**MORTGAGE AND SECURITY AGREEMENT**

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made and entered into as of the 17<sup>th</sup> day of January, 2014, by VALENCIA 520-524, LLC, a Florida limited liability company, whose address is 2550 Douglas Road, Suite 301, Coral Gables, Florida 33134, and BANCO POPULAR NORTH AMERICA, a New York state chartered commercial bank, ("Mortgagee") whose address is 9600 W. Bryn Mawr, Rosemont, Illinois 60018.

**W I T N E S S E T H:**

WHEREAS, Mortgagor is justly and lawfully indebted to Mortgagee in the sum of EIGHT HUNDRED EIGHTY ONE THOUSAND AND NO/100 (\$881,000.00) DOLLARS, as evidenced by that certain promissory note payable to the order of Mortgagee (the "Note"), executed by Mortgagor, bearing the same date as this Mortgage, to be paid according to its terms, the final payment under which is due and payable on January 17, 2024.

NOW THEREFORE, to secure the payment of the aforesaid indebtedness (the "Loan"), and such future or additional advances as may be made by Mortgagee, at its option, to Mortgagor or Mortgagor's permitted successors in title, for any purpose, provided that all those advances are to be made within 10 years from the date of the Mortgage or within such lesser period of time as may be provided hereafter by law as a prerequisite for the sufficiency of actual notice or record notice of optional future or additional advances as against the rights of creditors or subsequent purchasers for valuable consideration, the total amount of indebtedness secured by the Mortgage may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed the maximum principal amount of EIGHT HUNDRED FORTY EIGHT THOUSAND FIVE HUNDRED AND 00/100 (\$848,500.00) DOLLARS, plus interest and any disbursements made for the payment of taxes, levies or insurance on the property covered by the lien of the Mortgage with interest on those disbursements, Mortgagor hereby grants, bargains, sells, conveys, assigns, transfers, mortgages, pledges, delivers, sets over, warrants and confirms to Mortgagee the following:

All those certain lots, pieces, or parcels of land lying and being in Miami-Dade County, State of Florida (the "Property"), legally described as follows, with the same force and effect as though the contents of said property were set forth herein at length, together with the buildings and improvements now or hereafter situated thereon:

**SEE EXHIBIT "A" ATTACHED HERETO**

TOGETHER WITH all and singular the tenements, hereditaments, easements, riparian and other rights now or hereafter belonging or appurtenant thereto, and the rights, if any, in all adjacent roads, ways, streams, alleys, strips and gores; and the reversion or reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, claim and demand whatsoever of Mortgagor of, in and to the same and of, in and to every part and parcel thereof;

TOGETHER WITH all machinery, equipment, fittings, fixtures, furniture, furnishings, and articles of property of every kind and nature whatsoever (collectively, "Equipment"), whether actually or constructively attached to the Property or improvements thereto, now or hereafter owned by Mortgagor and located in, upon or under the Property, any improvements thereto, or any part thereof and used or usable in connection with any present or future operation of the Property or such improvements, including without limitation all heating, air conditioning, air cooling, sprinkling, freezing, lighting, water distribution, electric distribution, laundry, incinerating, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, sewage processing and communications apparatus, fixtures, conduits and attachments; dynamos and generating equipment; engines, pipes, pumps, tanks, motors, switchboards, lifting stations, boilers, ranges, furnaces, oil burners or units thereof; appliances, carpeting, underpadding, vacuum cleaning systems; elevators, escalators; shades, awnings, screens, blinds, storm doors and windows; and any other items of property acquired by Mortgagor, wherever the same may be kept or stored, if acquired with the intent of their being incorporated in or used in connection with the Property or any improvements to the Property; together also with all additions thereto and replacements thereof, Mortgagor hereby agreeing, with respect to all additions and replacements, to execute and deliver from time to time such further instruments as may be requested by Mortgagee to confirm their inclusion herein; all of which foregoing items described in this paragraph are hereby declared to be part of the Property and encumbered by the Mortgage;

TOGETHER WITH any and all awards or payments, including interest thereon and the right to receive the same, growing out of or as a result of any exercise of the right of eminent domain, including the taking of the Premises (as defined hereinafter) or any part thereof, or payment for alteration of the grade of any street upon which the Property abuts, or any other injury to, taking of, or decrease in the value of the Premises or any part thereof, to the extent of all amounts which may be owing on the Loan at the date of Mortgagee's receipt of any such award or payment and to the extent of the reasonable attorneys' fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award

or payment, including appellate proceedings, if any; any unearned premiums on any hazard, casualty, liability, or other insurance policy carried for the benefit of Mortgagor, Mortgagee and/or the Premises (as hereinafter defined); and Mortgagor's rights in, to, under, by virtue of, arising from or growing out of any and all present or future contracts, instruments, accounts, insurance policies, permits, licenses, trade names, plans, paid fees, subdivision restrictions or declarations or other intangibles whatsoever now or hereafter dealing with, affecting or concerning the Property, the improvements thereto, or any portion thereof or interest therein, including but not limited to: (a) all contracts and permits for or related to the Property or the development, construction and/or refurbishing of improvements on the Property, (c) all payment, performance or other bonds, and any other related choses-in-action, (d) any contracts now existing or hereafter made for the sale by Mortgagor of any portion of the Property, including any of the mortgagor's interest in deposits paid by any purchasers (however such deposits may be held) and any proceeds of such sales contracts, including any purchase money notes and mortgages made by such purchasers, and (e) any declaration of condominium or declaration of covenants, restrictions, easements or similar documents now or hereafter recorded against the title to the Property or any portion thereof;

TOGETHER WITH all of Mortgagor's rights to further encumber or lease the Property or any portion thereof except by such lease or encumbrances having the prior written approval of Mortgagee, which it may grant or withhold in its sole discretion. Mortgagor hereby (i) represents as a special inducement to Mortgagee to make the Loan that, as of the date hereof, there are no encumbrances to secure debt prior or junior to the Mortgage except as provided in paragraph 29 hereof, and (ii) covenants that there are to be none of same as of the date on which this Mortgage is recorded;

TOGETHER WITH all property, assets, rights and interest in property of Mortgagor, of any kind or description, tangible or intangible, whether now owned or existing or hereafter acquired or arising and wheresoever located including, but not being limited to, the following: all deposit accounts, accounts and accounts receivable of Mortgagor, whether now in existence or hereafter coming into existence; all letter of credit rights; all chattel paper (whether tangible or electronic), contract rights, instruments (including promissory notes), documents, general intangibles (including, without limitation, payment intangibles, trademarks, service marks, trade names, patents, copyrights and licenses), inventory (including raw materials inventory, finished goods inventory, parts, supplies) and goods in process of debtor, whether now in existence or owned or hereafter coming into existence or acquired, wherever located, and all returned goods, and repossessions and replacements thereof; all vehicles, furniture, machinery and equipment now owned and hereafter acquired by Mortgagor (including all embedded software); all investment property; all supporting obligations, software and commercial tort claims; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles and accounts proceeds); All insurance policies insuring the foregoing property or any part thereof including unearned premiums and all refunds.

TO HAVE AND TO HOLD the above-described and granted property, appurtenances and rights, (collectively, the "Premises") unto Mortgagee in fee simple forever.

PROVIDED, HOWEVER, that these presents are upon the conditions that if Mortgagor shall pay or cause to be paid to Mortgagee the principal and all interest payable with respect to the Loan and any future advance made hereunder and any other sums secured by the Mortgage at the time and in the manner stipulated in the Note and herein, all without any deduction or credit for taxes or other similar charges paid by Mortgagor, and shall keep, perform and observe all and singular the covenants and promises in the Note and any future advance agreement(s) renewals, extensions or modifications thereof, and in the Mortgage expressed to be kept, performed and observed by and on the part of Mortgagor, all without delay, and shall not permit or suffer to occur any default hereunder, then the Mortgage and all the interests and rights hereby granted, bargained, sold, conveyed, assigned, transferred, mortgaged, pledged, delivered, set over, warranted and confirmed shall cease, terminate and be void, but shall otherwise remain in full force and effect.

Mortgagor covenants with and warrants to Mortgagee as follows: (i) that Mortgagor has good and marketable title to Premises, is lawfully seized and possessed of the Property in fee simple and has good right to sell and convey the same; (ii) that the Premises are unencumbered except as provided in paragraph 29 hereof; and (iii) that Mortgagor shall forever warrant and defend the Premises unto Mortgagee against the lawful claims and demands of all persons whomsoever, and shall make such further assurances to perfect fee simple title to the Property in Mortgagor as Mortgagee may reasonably require. The parties further covenant and agree as follows:

1. Payments Due Mortgagee. Mortgagor shall pay all sums due Mortgagee at the time and in the manner provided in the Note, the Mortgage, any instrument evidencing a future advance or any other document related to, evidencing or securing the Loan.

2. Payment of Taxes. Mortgagor shall pay before the last day upon which the same may be paid without the imposition of interest (except interest payable on special assessments which, by law, may be paid in installments) or other late charge or penalty, all taxes, assessments (whether general or special and whether or not payable in installments) and other charges whatsoever levied on, assessed, placed or made against the Premises or any part thereof, and shall deliver to Mortgagee receipts showing payment in full of the same as soon as such receipts are available. At Mortgagee's option, Mortgagor shall pay to Mortgagee in advance, on a monthly basis, an amount sufficient (as estimated by Mortgagee) for Mortgagee to have in hand, in an impound account, funds sufficient to pay said taxes assessments and other charges thirty (30) days prior to the date when the same may first be paid. In no event shall Mortgagee be liable for any interest on any amount held by it in any such impound account. Mortgagor shall furnish to Mortgagee, as soon as it is available, an official statement of the amount of said taxes and assessments next due and Mortgagee shall pay said charges, but only if sufficient funds remain in the impound account. An official receipt therefor shall be conclusive evidence of such payment and of the validity of any such

charge. In the event that Mortgagee elects to pay any such taxes or assessments, notwithstanding that there are insufficient funds in the impound account, the amount advanced in excess of such escrowed funds shall be evidenced, shall bear interest, shall be paid and shall be secured as provided in paragraph 14 hereof. In the event of any default hereunder, at its option Mortgagee may apply such funds on account of the Loan in any order of priority it may deem appropriate, in its sole discretion. The balance in any such impound account at the time of any transfer of the title to all of the Premises shall inure to the benefit of a permitted successor and owner of the Premises without any specific assignment thereof. Upon payment in full of the Loan, the amount remaining in any such impound account shall be paid over to the owner of record as of the date of such full payment.

3. Insurance. Mortgagor shall keep the Premises insured for their full insurable value, with extended coverage, for the benefit of Mortgagor and Mortgagee by policies with such companies, on such terms, in such form and for such periods as Mortgagee shall require or approve from time to time, against loss or damage by fire, lightning, windstorm, hail, explosion, collapse, riot, riot attending a strike, civil commotion, aircraft, vehicles, flood and smoke and (as, when and to the extent insurance against war risk is obtainable from the United States of America or any agency thereof) against war risks, and when and to the extent required by Mortgagee, against any other risks. Mortgagor shall obtain and carry, for the benefit of itself and Mortgagee, general public liability insurance in which Mortgagor and Mortgagee, are named as insureds, with initial limits of not less than One Million Dollars (\$1,000,000.00) as to personal injury or death, or such greater or different limits as Mortgagee may require from time to time, with such companies, on such terms, in such form and for such periods as Mortgagee shall approve from time to time. Mortgagor shall also obtain and carry such workers' compensation insurance coverage as may be required by law, and during any period of construction on the Property, Mortgagor shall require of its contractors that they obtain and carry adequate contractor's liability insurance and workers' compensation insurance. Mortgagor hereby assigns to Mortgagee all policies of insurance which insure against any loss or damage to the Premises or any part thereof and any proceeds thereof, as collateral and further security for the payment of the Loan, with loss payable to Mortgagee pursuant to a mortgagee clause, without contribution, and satisfactory to Mortgagee. If Mortgagor defaults in so insuring the Premises or any part thereof or in so assigning the policies, at its option Mortgagee may effect such insurance from year to year and pay the premiums therefor and any such sums paid by Mortgagee shall be evidenced, shall bear interest, shall be paid and shall be secured as provided in paragraph 14 hereof. If Mortgagee receives any money for loss or damage by reason of such insurance, at Mortgagee's option such proceeds may be retained and applied by Mortgagee towards the payment of the Loan, in any order of priority Mortgagee shall deem appropriate, or disbursed by Mortgagee to Mortgagor, under such safeguards as Mortgagee shall deem appropriate, for the reconstruction, restoration or repair of the damage. In the event of a foreclosure of the Mortgage, the purchaser of the Premises shall succeed to all the rights of Mortgagee,

including any right to unearned premiums, in and to all policies of insurance described in this paragraph. Not less than thirty (30) days prior to the expiration date of each policy required pursuant to this paragraph, Mortgagor shall deliver to Mortgagee a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment satisfactory to Mortgagee. Evidence of the payment of premiums therefor, and each such policy shall be noncancellable without at least thirty (30) days' advance written notice to Mortgagee. At Mortgagee's option, after an event of default, Mortgagor shall pay to Mortgagee in advance, on a monthly basis, an amount sufficient (as estimated by Mortgagee) for Mortgagee to have in hand, in an impound account, funds sufficient to pay all insurance premiums and related charges thirty (30) days prior to the date when the same may first be paid without regard to any premium finance arrangement which may be available. In no event shall Mortgagee be liable for any interest on any amount held by it in any such impound account.

4. Improvements. Without the prior written consent of Mortgagee, which it may grant or withhold in its reasonable discretion, no improvements shall be constructed on the Property and no development thereof shall be undertaken, and once constructed, no building or other improvement covered by the lien of the Mortgage shall be removed, demolished or materially altered or enlarged except as required in the event of fire, other casualty or condemnation; however, Mortgagor shall have the right to remove and dispose of, free from the lien of the mortgage, such Equipment as from time to time may become worn out or obsolete, provided that, simultaneously with or prior to such removal, any such Equipment shall be replaced with new Equipment of at least the same quality as that of the replaced Equipment when it was new, which shall be free from any title retention or other security agreement or other encumbrance, and, by such removal and replacement, Mortgagor shall be deemed to have subjected such new Equipment to the lien of the Mortgage.

5. Use and Maintenance. Mortgagor shall maintain and operate, and do everything necessary to maintain and operate, the Premises in good condition and repair and in a first class manner, shall not commit or suffer any waste of the Premises, and shall comply with, or cause compliance with, all restrictive covenants applicable thereto and all statutes, ordinances and requirements of any governmental authorities having jurisdiction over the Premises or the use thereof. Mortgagor shall promptly pay all utility fees for services provided to the Property and improvements thereto. Mortgagor shall promptly repair, restore, replace or rebuild any part of the Premises now or hereafter subject to the lien of the Mortgage which may be damaged or destroyed by any casualty whatsoever or which may be affected by any proceeding of the character referred to in paragraph 9 hereof. Mortgagor shall complete and pay for, within a reasonable time, any improvements and any structures at any time in the process of construction on the Property. Mortgagor shall not initiate, join in or consent to any new (or any change in any existing) private restrictive covenant, zoning ordinance, master plan, site plan, easement, or other public or private restrictions limiting or defining the uses which may be made of the Premises or any part

thereof without the prior written approval of Mortgagee, which it may grant or withhold in its sole discretion.

6. Further Encumbrances. Mortgagor shall not grant any other lien or mortgage on the Premises, any portion thereof or interest therein without the prior written consent of Mortgagee, which Mortgagee may grant or withhold in its sole discretion. Any such other lien or mortgage shall be junior to the Mortgage and to all permitted tenancies now or hereafter affecting the Premises or any portion thereof and shall be subject to all renewals, extensions, modifications, releases, increases, increases in interest rate, future advances, changes or exchanges permitted by the Mortgage, all without the joinder or consent of such junior lienholder, or mortgage holder and without any obligation on Mortgagee's part to give notice of any kind thereto. Except only as and to the extent hereinabove permitted with Mortgagee's prior written consent, Mortgagor shall not commit or suffer or permit to occur any act or omission whereby any of the Premises or any interest therein shall become subject to any attachment, judgment, lien, charge or other encumbrance whatsoever, or whereby any of the security represented by the Mortgage shall be impaired or threatened. Mortgagor shall not directly or indirectly do anything or take any action which might prejudice any of the right, title or interest of Mortgagee in or to any of the Premises or impose or create any direct or indirect obligation or liability on the part of Mortgagee with respect to any of the Premises.

7. Possession by Third Parties. Mortgagor shall not enter into any leases or other arrangements with any third party regarding the use or possession by such third party of all or any part or portion of the Premises without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion. Notwithstanding the foregoing, Mortgagor shall be entitled to enter into leases at prevailing market rates without the prior consent of Mortgagee.

8. Assignment of Leases. As further security for the repayment of the Loan, Mortgagor hereby assigns and transfers to Mortgagee all rents, issues and profits of the Premises and all right, title and interest of Mortgagor in and under all leases including any extensions and renewals thereof now or hereafter affecting the Premises (the "Leases"). Mortgagor hereby empowers Mortgagee, its agents or attorneys, to collect, sue for, settle, compromise and give acquittances for all of the rents that may become due under the Leases and to avail itself of and pursue all remedies for the enforcement of the Leases and Mortgagor's rights thereunder that Mortgagor could have pursued but for this assignment. Mortgagor hereby represents and warrants to Mortgagee and shall be deemed to have represented and warranted to Mortgagee upon and as of the date of delivering to Mortgagee a copy of each Lease as follows: (a) that each such copy delivered or to be delivered to Mortgagee is true, correct and complete; (b) that Mortgagor has not previously assigned or pledged any Lease or any interest therein to any person other than Mortgagee; (c) that all the

Leases are in full force and effect; (d) that each lessee thereunder has accepted its respective premises and is paying rent on a current basis; (e) that no default exists on the part of such lessees or Mortgagor as lessor in their respective performances of the terms, covenants, provisions and agreements contained in the Leases; (f) that no rent has been paid by any of the lessees for more than two (2) months in advance with the exception of rent collected and to be applied to tenant's last month's rent; and (g) that no payment of rents to accrue under the Leases has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagor directly or indirectly, whether by assuming any lessee's obligations with respect to other premises or otherwise. Mortgagor covenants and agrees with Mortgagee as follows: (a) that each Lease shall remain in full force and effect irrespective of any merger of the interests of the lessor and lessee thereunder; (b) that without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion, Mortgagor shall not, other than in the ordinary course of business, terminate, modify or amend any Lease or any guarantee thereof or any term of either, nor grant any concessions in connection therewith either orally or in writing, nor accept any surrender thereof, and that any attempted termination, modification, amendment, concession or surrender without such written consent shall be null and void; (c) that Mortgagor shall not collect more than two (2) months' rent, income or profits arising or accruing under any Lease in advance of the due date for same, nor discount by more than 15% any future accruing rents, nor suffer or permit to arise in favor of any lessee any release of liability or any right to withhold payment of rent, nor take any action or exercise any right of election which would in any way diminish any lessee's liability or have the effect of shortening the stated term of any Lease; (d) that Mortgagor shall perform all of Mortgagor's covenants and agreements as lessor under each Lease and shall promptly deliver to Mortgagee copies of any notice of alleged default on the part of Mortgagor as lessor received from any lessee thereunder; (e) that if requested by Mortgagee, Mortgagor shall expeditiously and in good faith enforce the Leases and all remedies available to Mortgagor in case of default by the lessees thereunder; and (f) that Mortgagor shall not execute any other assignment or pledge of any Lease or any interest therein or any of the rents thereunder, nor consent to any lessee's assignment of any Lease or any subletting thereunder, nor request, accept, consent to or agree to any subordination of any Lease to any mortgage other than the Mortgage now or hereafter affecting the Premises. No liability shall be assumed by or asserted or enforced against Mortgagee in connection with the exercise of the powers herein granted Mortgagee, all such liability being hereby expressly waived and released by Mortgagor. Mortgagee shall not be obligated to perform or discharge any obligation, duty or liability under any Lease or by reason of this assignment, and Mortgagor hereby indemnifies and holds Mortgagee harmless from and against any and all liability, loss, claim, damage, costs and attorneys' fees which Mortgagee may or might incur under any Lease or by reason of this assignment, and from and against any and all claims or demands whatsoever, including any related costs and attorneys' fees which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on the part of Mortgagor to perform or discharge any of the terms, covenants or agreements contained



in any Lease. Nothing herein contained shall be construed as constituting Mortgagee a trustee or mortgagee in possession. Although Mortgagor and Mortgagee intend that this instrument shall be a present assignment, it is expressly understood and agreed that so long as no default shall exist under the Note, the Mortgage or any other document at any time executed by Mortgagor with respect to the Loan, Mortgagor may collect assigned rents and profits for not more than two (2) months in advance of the accrual thereof, but upon the occurrence of any such default, or at any time during its continuance, all right of Mortgagor to collect or receive rents or profits shall wholly terminate upon notice from Mortgagee. The lessees under all the Leases are hereby irrevocably authorized to rely upon and comply with, and shall be fully protected in so doing, any notice or demand by Mortgagee for the payment to Mortgagee of any rental or other sums which may be or thereafter become due under the Leases, or for the performance of any of the lessees' undertakings under the Leases, and none of them shall have any right or duty to inquire as to whether any default hereunder or under the Note shall have actually occurred or is then existing.

9. Takings. Notwithstanding any taking by eminent domain, alteration of the grade of any street, or other injury to, or decrease in value of, the Premises or any portion thereof caused by any public or quasi-public authority or person, Mortgagor shall continue to pay interest on the entire principal and other sums secured hereby until any award or payment shall have been actually received by Mortgagee and applied by Mortgagee against the Loan. At Mortgagee's option any such award or payment may be retained and applied by Mortgagee, in whole or in part, toward payment of the Loan, in any order of priority which Mortgagee may deem appropriate in its sole discretion, or be paid over wholly or in part to Mortgagor for the purpose of altering, restoring or rebuilding any part of the Premises which may have been altered, damaged or destroyed as a result of any such taking, alteration of grade or other injury to the Premises, or for any other purpose or object satisfactory to Mortgagee, in its sole discretion.

10. Further Instruments. Mortgagor shall execute and deliver to Mortgagee, from time to time and on demand, any further instruments, and shall pay costs of preparation and recording thereof, including but not limited to mortgages, security agreements, financing statements, assignments and renewal and substitution notes, so as to reaffirm, to correct and to perfect the evidence of the obligations secured hereby and the legal security title of Mortgagee to all or any part of the property intended to be mortgaged hereby, whether now mortgaged, later substituted for other collateral, or acquired subsequent to the date of the Mortgage.

11. Estoppel Letters. Upon request made either personally or by mail, Mortgagor shall certify, by a duly acknowledged writing, to Mortgagee or to any proposed assignee of the Mortgage, the amount of principal and interest then owing on the Note and whether any

offsets or defenses exist against the Loan, such certification to be provided within ten (10) days after Mortgagor's receipt of such request.

12. Information Furnished. Mortgagor shall promptly furnish to Mortgagee any financial or other information regarding Mortgagor, any Guarantors or the Premises which Mortgagee may reasonably request from time to time. Mortgagor shall deliver to Mortgagee, within ninety (90) days after the close of each fiscal year of Mortgagor, a financial statement of Mortgagor and of each Guarantor in such reasonable detail as Mortgagee may request, certified as true and correct by Mortgagor, which Mortgagee may require to be audited and confirmed by an accounting firm designated by Mortgagee at the expense of Mortgagor at a reasonable cost, together with such supporting statements as Mortgagee may deem appropriate in its sole discretion.

13. Default. At Mortgagee's option, the whole of the principal sum, interest and other sums secured hereby shall immediately or at any time thereafter become due and payable without notice to Mortgagor, and Mortgagee shall immediately have all the rights accorded Mortgagee by law and hereunder to foreclose the Mortgage or otherwise to enforce the Mortgage, the Note and any other Loan document upon the occurrence of any of the following: (a) default in the payment of any installment of interest under the Note, or default in the payment of principal under the Note, whether due under the terms thereof or by acceleration; (b) default in the payment of any tax, assessment, utility charge, or other charge against the Premises or any part thereof as and when required by the Mortgage; (c) default in the repayment of any sum paid or advanced by Mortgagee under any of the terms of the Mortgage, with interest thereon, as provided in paragraph 14 hereof; (d) the actual or threatened waste, removal, demolition, material alteration or enlargement of any building or other improvements on the Property without the prior written consent of Mortgagee, which it may grant or withhold in its sole but reasonable discretion, or upon the commencement of unpermitted construction of any new building(s) or other improvements on any part of the Property; (e) default in obtaining, assigning, delivering or keeping in force the policies of insurance required by paragraph 3 hereof; (f) additional assignment by Mortgagor of the whole or any part of the rents, income or profits arising from the Premises or any part thereof without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion; (g) Mortgagor's failure to remove any involuntary lien on the Premises of any part thereof within twenty (20) days after its filing; (h) Mortgagor's failure to comply within ten (10) days with a requirement, order or notice of violation of a law, ordinance, or regulation issued or promulgated by any political subdivision or governmental department claiming jurisdiction over the Property or any operation conducted on the Property, or after Mortgagor's failure to comply within ten (10) days with any notice of violation of any restrictive covenant affecting the Property or the construction of improvements thereon from any party entitled to enforce such covenant or, if such order or notice provides a time period for compliance, upon Mortgagor's failure to comply within such period, or, in the case of a

noncompliance which cannot be cured within said period, in the event that Mortgagor shall not commence to comply with said order or notice within said period and shall not thereafter diligently pursue such cure to completion; (i) the issuance of any order by the State of Florida, or any subdivision, instrumentality, administrative board or department thereof, declaring unlawful or suspending the construction of permitted improvements on the Property or the operation of the Premises; (j) the filing by the United States of America or any instrumentality thereof in any court of competent jurisdiction of any notice of intention to acquire under the power of eminent domain any estate less than an estate in fee simple in the entire Property, or upon the recording by the State of Florida, any instrumentality thereof or any other person with eminent domain powers, of a notice of taking of any estate less than an estate in fee simple in the entire Property; (k) the filing by or against Mortgagor or any partner in Mortgagor of any petition or application for relief, extension, moratorium or reorganization under any bankruptcy, insolvency or debtor's relief law of the United States, any state thereof, or any state, province or territory of any foreign country; (l) if Mortgagor or any partner in Mortgagor shall make an assignment for the benefit of creditors, or enter as a debtor into any trust or mortgage arrangement or become a party as a debtor to any receivership proceeding; (m) a further encumbering for debt, or transfer of control of, or change in the legal or equitable ownership of the Premises, any part or portion thereof or interest therein, or a change in the management of the Premises, without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion; (n) if Mortgagor or any shareholder or partner in Mortgagor becomes insolvent; (o) any statement, certificate or representation made to Mortgagee by or on behalf of Mortgagor or any guarantor of the Loan in connection with the Loan, shall prove to be at any time incorrect in any respect deemed material by Mortgagee, in its sole discretion; (p) the voluntary or involuntary dissolution of Mortgagor; (q) any change in the ownership or control of Mortgagor or any pledge, other encumbrance or assignment of the whole or any portion of any interest in Mortgagor without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion; (r) any payment, repayment or other distribution whatsoever of funds by Mortgagor to any partner or person related to Mortgagor or owning any direct or indirect interest in Mortgagor (other than in the ordinary course of business while this loan is not in default) without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion; (s) any other withdrawal, use or disposition of funds or other assets of Mortgagor other than in connection with the operation and maintenance of the Property without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion; (t) default under the terms of paragraph 29 hereof regardless of whether any instrument referred to therein provides a grace period; or (u) default in the observance or performance of any other covenants or agreements of Mortgagor, the occurrence of any other event prohibited by the terms of the Mortgage, or the violation of any other provision of the Mortgage. No consent or waiver expressed or implied by Mortgagee to or of any default by Mortgagor under the Mortgage shall be construed as a consent or waiver to or of any further default of the same or a different nature; and no consent or waiver shall be deemed or

construed to exist by reason of any course of conduct or in any other manner whatsoever except by a writing duly executed by Mortgagee, and then only for the single occasion to which such writing is addressed.

14. Advances Hereunder. In the event of any default in the performance of any of Mortgagor's covenants or agreements contained in the Mortgage or the violation of any term of the Mortgage, at its option Mortgagee may cure the default or take any other action it deems necessary or desirable, in its sole discretion, to protect its security; and, in the event Mortgagee shall be required or shall elect to advance at any time any sums to protect its security or for any other reason permitted or provided by any of the terms or provisions contained in the Mortgage, such sums shall be deemed Loan funds, shall be evidenced by the Note, shall bear interest until paid at the "Default Rate" provided in the Note commencing on the date such funds are advanced by Mortgagee, and shall be secured by the Mortgage. If advanced by Mortgagee prior to the natural or accelerated maturity date of the Loan, such sums shall be due and payable by Mortgagor on such maturity date or ten (10) days following Mortgagor's receipt of demand therefor, whichever is earlier, but if advanced after the natural or accelerated maturity date, such sums shall be due and payable immediately without demand. Mortgagee's lien on the Premises therefor shall be prior to any right or title to, interest in, or claim upon the Premises, or any portion thereof, junior to the lien of the Mortgage.

15. Receiver. In any action to foreclose the Mortgage, or upon the actual or threatened waste to any part of the Premises, Mortgagee shall have the right to apply, without prior notice to Mortgagor, for the appointment of a receiver of the Premises, and shall be entitled to the appointment of such a receiver as a matter of right, without consideration of the value of the Premises as security for the amounts due Mortgagee or the solvency of any person liable for the payment of such amounts.

16. Remedies. The rights of Mortgagee arising hereunder, under the Note or under any other document executed at any time in connection with the Loan, and the rights allowed or permitted Mortgagee by law or equity, shall be separate, distinct and cumulative, and the selection of one remedy shall not preclude the selection of another or other remedies until Mortgagee shall have recovered all sums due it, together with the appropriate interest thereon and all costs of collection, including attorneys' fees and appellate attorneys' fees, with interest thereon. In case of any foreclosure sale, the Premises may be sold, without marshalling, in one parcel and as an entirety or in such parcels, manner or order as Mortgagee, in its sole discretion, may elect.

17. Additional Tax. In the event of the passage after the date of the Mortgage of any federal, state or local law (a) changing in any way the laws for the taxation of mortgages or debts secured by mortgages for federal, state or local purposes, or changing the manner

of the collection of any such taxes, and (b) imposing either directly or indirectly a new tax on the Mortgage, the Note or the holder thereof, then Mortgagee shall have the right to declare the Loan due on a date to be specified by not less than ninety (90) days' notice to Mortgagor; provided, however, that such election shall be ineffective if Mortgagor is permitted by law to pay the whole of such tax, without such payment being deemed to be interest or a payment in the nature of interest, in addition to all other payments required hereunder and if Mortgagor, prior to such specified date, does pay such tax and agrees to pay any such tax when thereafter levied or assessed, in which case such agreement shall constitute a modification of the Mortgage.

18. Stamps and Taxes. If at any time the State of Florida shall determine that the intangible tax paid in connection with the Mortgage is insufficient or that the documentary stamps affixed hereto are insufficient, and that additional intangible tax should be paid or that additional stamps should be affixed, Mortgagor shall pay for the same, together with any interest or penalties imposed in connection with such determination, and Mortgagee hereby indemnifies and holds Mortgagee harmless therefrom. If any such sums shall be advanced by Mortgagee, they shall be evidenced, shall bear interest, shall be paid and shall be secured as provided in paragraph 14 hereof.

19. Fees and Expenses. If Mortgagee shall incur or expend any sums, including reasonable attorneys' fees, whether or not in connection with any action, proceeding or appeal, to sustain the lien of the Mortgage or its priority, or in any other action, proceeding or appeal, or to protect or enforce any of its rights hereunder, or to recover any indebtedness secured hereby, or for any title examination or title insurance policy relating to the title to the Property, all such sums shall be evidenced, shall bear interest, shall be paid and shall be secured as provided in paragraph 14 hereof.

20. Uniform Commercial Code. The Mortgage is a security agreement as defined by the Uniform Commercial Code as adopted by the state in which the Premises are located, and the original, a carbon, photographic, or other reproduction of either the Mortgage or a financing statement shall be sufficient as a financing statement under the Uniform Commercial Code. The remedies for any violation of the covenants, terms and conditions of the agreements contained in the Mortgage shall be as prescribed (a) in the Mortgage, (b) by general law or (c) as to any items included in the definition of the Premises that may also be listed in any filed financing statement, by the specific statutory provisions now or hereafter enacted and specified in the 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 be construed as derogating from or impairing in any way this intention of the parties hereto that everything used in connection with the production of income from the Premises or described or reflected in the 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 property to the fullest extent permitted by law, irrespective of whether (a) any such item is physically attached to the improvements, (b) 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 (c) 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 thereof, whether pursuant to lease or otherwise, or (d) any other item included in the definition of the Premises, shall never be construed to alter any of the rights of Mortgagee as determined by the Mortgage or to impugn the priority of the interests of Mortgagee granted in the 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) immediately above 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.

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

22. Partial Payments. Mortgagee's acceptance of any payment which is less than full payment of all amounts due and payable to Mortgagee at the time of such payment, even if made by one other than the Mortgagor, shall not constitute a waiver of Mortgagee's right to exercise its option to accelerate the maturity date of the Loan or exercise any other rights of Mortgagee.

23. Transfers. Without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion, neither the whole nor any portion of the legal or equitable title to the whole or any portion of the Premises or any interest therein shall in any manner be sold, conveyed or transferred, either voluntarily or by operation of law, without the prior written consent of Mortgagee, which it may grant or withhold in its sole discretion. Neither Mortgagor nor any partner in Mortgagor shall cause, permit or suffer to occur (a) any change in the ownership or control of Mortgagor or any pledge, other encumbrance or assignment

of the whole or any portion of any partner's interest in Mortgagor, (b) any payment, repayment or other distribution whatsoever of funds by Mortgagor to any partner in Mortgagor or any other person related to Mortgagor or owning any direct or indirect interest in Mortgagor (other than in the ordinary course of business while this loan is not in default), or (c) any other withdrawal, use or disposition of funds or other assets of Mortgagor other than in connection with the operation of the Property. This paragraph shall not apply if the Mortgagor sells the Premises and pays off this mortgage.

24. Modifications after Transfer. In the event of a sale, conveyance or transfer, in bulk, of the whole or such portion of the Property then encumbered hereby to a permitted new owner, Mortgagor consents to any and all subsequent renewals and extensions in the time of payment of the Loan, and agrees further that, at any time and from time to time thereafter without notice, by agreement between Mortgagee and any such permitted new owner (a) the terms of payment provided for in the Note may be modified, (b) the security described in the Mortgage may in whole or in part be released, increased, changed or exchanged, or (c) any other terms whatsoever of the Note, the Mortgage or any other Loan document may be modified, with no such change affecting in any way the liability of Mortgagor or any other person liable with respect to the Loan. Mortgagor agrees that no sale of the Premises or any part thereof, no forbearance on the part of Mortgagee, no extension of the time for the payment of the whole or any part of the obligations secured hereby, no other indulgence given by Mortgagee, nor any other such modification of the terms of the Loan shall operate to relieve or in any manner affect the original liability of Mortgagor or the priority of this Mortgage, or to limit, prejudice or impair any right of Mortgagee; Mortgagor and all those claiming by, through or under Mortgagor waive any and all right to prior notice of any such extension, indulgence, forbearance or modification.

25. Notices. Whenever Mortgagor or Mortgagee are obliged to give notice to the other, such notice shall be in writing and shall be given personally or by prepaid certified mail return receipt requested, in which latter case notice shall be deemed effectively made when the receipt is signed or when the attempted initial delivery is refused or cannot be made because of a change of address of which the sending party has not been notified. Until the designated addresses are changed by notice given in accordance herewith, notice to either party shall be sent to its respective address set forth on the first page of the Mortgage.

26. Governing Law; Severability. The Mortgage shall be governed by, and construed and enforced in accordance with the laws of the State of Florida, excepting only that federal law shall govern to the extent it may permit Mortgagee to charge, from time to time, interest on the Loan at a rate higher than may be permissible under the Florida law. If, for any reason whatsoever, fulfillment of any provision of the Mortgage or the Note shall transcend the limit of validity prescribed by the applicable usury statute or any other law, then the obligation to be fulfilled shall be reduced to the limit of such validity; in no event



shall any exaction be possible under the Mortgage or the Note that is in excess of the limit of such validity, but such obligation shall be fulfilled to the limit of such validity. Mortgagor and Mortgagee intend that all of the provisions hereof shall be valid and enforceable as specifically set forth. Any judicial determination that any provision hereof is not valid or enforceable as specifically set forth shall not result in such provision being declared invalid, but the same shall be deemed modified in such a manner so as to result in the same being valid and enforceable to the maximum extent permitted by law. As to any portion that is actually determined by a court of competent jurisdiction to be invalid, it is the intention of Mortgagor and Mortgagee that the remainder of the document or the applicable clause, paragraph, or article shall be enforced as written, and the declaration of invalidity shall apply only to the clause, paragraph or article in question. The terms of this paragraph shall control any contrary provisions in the Note or the Mortgage, anything therein or herein to the contrary notwithstanding.

27. Inspection; Management; Watchmen. Mortgagee and any persons authorized by Mortgagee shall have the right, from time to time at the discretion of Mortgagee, to enter and inspect the Premises. Any inspection shall be during regular business hours and upon written notice to the Mortgagor. The operation of the Premises shall at all times during the term of the Loan be under the supervision and management of competent management personnel satisfactory to Mortgagee, present management being satisfactory to Mortgagee. At any time after default by Mortgagor in the performance of any of the terms, covenants or provisions of the Note, the Mortgage or any other Loan document, if Mortgagee shall determine, in its sole discretion, that the management or maintenance of the Premises is unsatisfactory, Mortgagor shall employ as managing agent of the Premises, for the duration of such default and at Mortgagor's sole expense, any person or entity designated from time to time by Mortgagee. At any time after such default, if any of the Premises shall be unprotected or unguarded, or any improved portion of the Property shall be allowed to remain vacant or deserted, then at its option, Mortgagee may employ watchmen for the Property and expend any monies deemed by it necessary to protect the Property, the buildings and improvements thereon and the Equipment and personal property therein or thereon from waste, vandalism and other hazards, depredation or injury, and any sums expended by Mortgagee for such purpose shall be evidenced, shall bear interest, shall be paid and shall be secured as provided in paragraph 14 hereof.

28. Signs. Intentionally omitted.

29. Prior Mortgages; Cross-default. In the event that, with Mortgagee's prior written consent, the Mortgage is subject and subordinate to any mortgage or encumbrance, Mortgagor covenants that no default exists under said mortgage or the promissory note secured thereby, that it shall not commit, permit, or suffer to occur any such default, and that any default under the terms thereof shall constitute a default hereunder. Mortgagee shall

have the right to advance any funds required to cure any default under the terms thereof, and any such sums shall be deemed "future advances" under the terms of the Mortgage and shall be evidenced, shall bear interest, shall be paid and shall be secured as provided in paragraph 14 hereof; to the extent that Mortgagee advances funds to cure any such default, Mortgagee shall be subrogated to the rights of the holder of the note and mortgage to whom, or for whose benefit, such funds are paid. Mortgagor shall not, without the prior written consent of Mortgagee, which may be granted or withheld in Mortgagee's sole discretion, accept any "future advance" under said mortgage or consent to the modification of any term thereof or of the promissory note secured thereby. The Mortgage further secures the payment and performance of Mortgagor's present or future obligations to Mortgagee under or by virtue of said mortgage or promissory note, and said mortgage and note are hereby modified to provide that any default under the Note or the terms hereof shall constitute a default thereunder; in the event of a default under the Mortgage including without limitation any default under this paragraph, any sums paid to or collected by Mortgagee by virtue of the Note or the Mortgage may be applied by Mortgagee to discharge, in whole or in part, any of the obligations secured by the Mortgage including without limitation all obligations secured under this paragraph, all in the order of priority which Mortgagee shall deem appropriate, from time to time, in its sole discretion.

30. Cross-Collateralization. In addition to the obligations described above as evidenced by the Note or otherwise, the Mortgage is given to secure any and all obligations from the Mortgagor to the Mortgagee and for all obligations of Mortgagor to Mortgagee arising by virtue of any security agreement, promissory note or other agreement between Mortgagor and Mortgagee and for all obligations of Mortgagor to Mortgagee, contingent or absolute, direct or indirect, regardless of however or whenever created whether related to the Loan or not.

31. Construction Loan Agreement. If the sums secured hereby are disbursed in accordance with a Construction Loan Agreement the provisions of said Construction Loan Agreement are incorporated herein as fully as if said Construction Loan Agreement were set forth herein at length and a default thereunder shall be deemed a default hereunder.

32. Future Advances This mortgage is also given to secure advances, whether such advances are obligatory or are to be made at the option of the Mortgagee, or otherwise, made to any Maker, as are made within ten(10) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of the indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid balance so secured at one time shall not exceed 200% of the Promissory Note of even date herewith as set forth in the Mortgage, plus interest thereon, and any disbursements for the payment of taxes, levies, or insurance on the Mortgaged Property, with interest on such disbursements at the Default Rate (defined in the Promissory Note of

even date). Advances may be made pursuant to this provision to an Obligor without the consent of the Mortgagor being obtained prior thereto, Mortgagor hereby agreeing that the Mortgaged Property, shall secure all such advances. All Notices of Limitation of Future Advances provided in accordance with the provisions of §697.04 of the Florida Statutes shall be provided to the Mortgagee.

33. Miscellaneous. Wherever used in the Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the word "Mortgagor" shall mean Mortgagor or any subsequent owner or owners of the Premises; the word "Mortgagee" shall mean Mortgagee or any subsequent holder(s) of the Mortgage; the word "Note" shall mean the Note, any renewal notes and any additional notes hereafter to be issued secured by the Mortgage pursuant to the future advance provision hereof; the word "person" shall mean an individual, corporation, partnership, limited partnership, unincorporated association, joint stock corporation, joint venture or other legal entity; pronouns of any gender shall include the other genders; and either the singular or plural shall include the obligations and liabilities of each such person hereunder which shall be joint and several, and wherever the term "Mortgagor" is used it shall be deemed to refer to such persons jointly and severally. The Mortgage shall be binding upon the parties hereto and their respective successors and assigns, and it shall inure to the benefit of Mortgagee and its successors and assigns and Mortgagor and its permitted successors and assigns. The Mortgage may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one instrument. The Mortgage cannot be changed except by an agreement in writing, signed by the party against whom enforcement of the change is sought. Captions and headings in the Mortgage are for convenience only and shall not affect its construction.

**THE UNDERSIGNED AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY OTHER AGREEMENT, DOCUMENT OR INSTRUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR MORTGAGEE ENTERING INTO THE TRANSACTIONS CONTEMPLATED HEREBY.**

WITNESS the due execution hereof as of the date first above written.

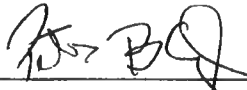
Signed, sealed and delivered  
in the presence of:

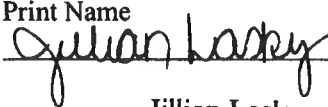
MORTGAGOR:

**VALENCIA 520-524, LLC, a Florida  
limited liability company**

**By: BERAJA INVESTMENTS II, LTD., a  
Florida limited partnership, it's Manager**

**By: BERAJA INVESTMENTS II, INC., a  
Florida corporation, it's General Partner**

  
\_\_\_\_\_  
Peter B. Cagle

Print Name  
  
\_\_\_\_\_  
Jillian Lasky

Print Name

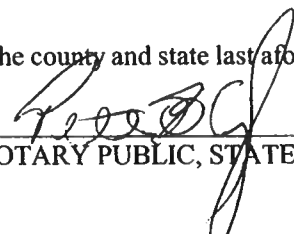
  
By: **ESTHER BERAJA, DIRECTOR**

2550 Douglas Rd #301  
Coral Gables FL 33134

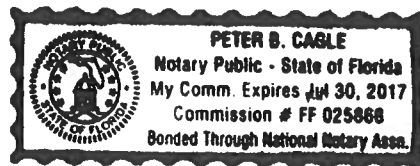
STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on January 17, 2014, by **ESTHER BERAJA, as DIRECTOR of BERAJA INVESTMENTS II, INC., a Florida Corporation, the General Partner of BERAJA INVESTMENTS II, LTD., A Florida limited partnership, the Manager of VALENCIA 520-524, LLC, a Florida limited liability company,** to me known to be the person described herein or who produced drivers license as identification and who executed the foregoing instrument and she acknowledged before me that she executed the same for the purpose therein expressed.

WITNESS my hand and official seal in the county and state last aforesaid this 17th day of January, 2014.

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

This instrument prepared by:  
Manuel A. Ramirez, Esquire  
CASTRO & RAMIREZ, LLC  
1805 Ponce de Leon Blvd., Ste. #500  
Coral Gables, Florida 33134  
Telephone: (305) 372-2800



545 Coral Way

LEGAL DESCRIPTION

Lot 23, in Block 9 of CORAL GABLES, SECTION B, according to the Plat thereof, as recorded in Plat Book 5, at Page 111, of the Public Records of Miami-Dade County, Florida



CFN 2022R0495954  
OR BK 33248 Pgs 4150-4201 (52Pgs)  
RECORDED 06/17/2022 15:03:40  
MTG DOC TAX \$34,737.50  
INTANG TAX \$19,850.00  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

Instrument Prepared by:

Ignacio E. Arango, Esquire  
STOLZENBERG GELLES FLYNN & ARANGO, LLP  
1533 Sunset Drive, Suite 150  
Coral Gables, Florida 33143

**VALENCIA 520-524, LLC**  
(Mortgagor)

To

**POPULAR BANK**  
(Mortgagee)

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

Dated: As of May 31, 2022

Address: 220 Antilla Ave., 10 SW 30<sup>th</sup> Court, 33010, 3050 W. Flagler Street, 520 & 524  
Valencia Ave., 545 Coral Way, 219 Phonetia Ave., 119, 123, 127 & 130 Santillane Ave.,  
& 1000 E. Ponce de Leon Boulevard, all in Coral Gables, FL 33134, 3201 Aviation Ave.,  
Coconut Grove, FL 33133, & 70 S.W. 30<sup>th</sup> Ave., Miami, FL 33135

52

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

This MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, FINANCING STATEMENT AND FIXTURE FILING (this "**Mortgage**"), dated as of May 31, 2022, is made by and between VALENCIA 520-524, LLC, a Florida limited liability company, having its principal office at 2550 S. Douglas Road, Suite 300, Coral Gables, Florida 33134 ("**Mortgagor**"), and/in favor of POPULAR BANK, a New York state chartered commercial bank, having an address at 85 Broad Street, 10<sup>th</sup> Floor, New York, New York 10004 (together with its successors and/or assigns, "**Mortgagee**").

**WITNESSETH:**

**WHEREAS**, Mortgagor is the actual, record and beneficial owner of the fee estate in the Premises (as hereinafter defined); and

**WHEREAS**, Mortgagee has agreed to make the Loan (as hereinafter defined) to Mortgagor and said indebtedness is evidenced by the Note (as hereinafter defined); and

**WHEREAS**, the parties intend that the Note shall be secured by this Mortgage.

**NOW, THEREFORE**, in consideration of the premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties hereto agree, as follows:

**ARTICLE I**

**Section 1.1    Defined Terms.**

Mortgagor and Mortgagee agree that, unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified.

**"Accountants"** means such firm of accountants selected by Mortgagor which have been approved by Mortgagee.

**"Appraisal"** means an appraisal of the Mortgaged Property prepared by an Appraiser, which appraisal must be prepared in accordance with the Uniform Standards of Appraisal Practice as adopted by the Appraisal Standards Board of the Appraisal Foundation, and which must be satisfactory to Mortgagee in all respects.

**"Appraiser"** means a "state certified general appraiser" as such term is defined and construed under applicable regulations and guidelines issued pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which appraiser must have been licensed and certified by the applicable Governmental Authority having jurisdiction in the State where the Mortgaged Property is located, and which appraiser shall have been approved by Mortgagee, or which appraiser, at Mortgagee's sole judgment and discretion, shall be an employee of Mortgagee.

**“Bankruptcy Code”** means Title 11 of the United States Code, as amended from time to time, or any similar federal or state law for the relief of debtors.

**“Borrower’s Notice Address”** has the meaning ascribed to such term in the Note.

**“Chattels”** means all furniture, furnishings, partitions, screens, awnings, venetian blinds, window shades, draperies, carpeting, pipes, ducts, conduits, dynamos, motors, engines, compressors, generators, boilers, stokers, furnaces, pumps, tanks, elevators, escalators, vacuum cleaning systems, call systems, switchboards, sprinkler systems, fire prevention and extinguishing apparatus, refrigerating, air conditioning, heating, dishwashing, plumbing, ventilating, gas, steam, electrical and lighting fittings and fixtures, licenses or permits of any kind, trademarks, copyrights, accounts receivable, rights to any trade names, operating supplies and all building materials, equipment and goods now or hereafter delivered to the Premises and intended to be installed therein, and all other machinery, fixtures, tools, implements, apparatus, appliances, equipment, goods, facilities and other personal property of every kind and character whatsoever, together with all renewals, replacements and substitutions thereof and additions and accessions thereto in which Mortgagor now has, or at any time hereafter acquires, an interest and which are now or hereafter located or situated in or upon, or affixed or attached to, or used in connection with the enjoyment, occupancy and/or operation of, all or any portion of the Premises, and the proceeds of all of the foregoing items.

**“Default Rate”** shall have the meaning ascribed in the Note.

**“Event of Default”** means the events and circumstances described as such in Article V hereof.

**“GAAP”** means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statement by such other entity as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination, consistently applied.

**“Governmental Authority”** means any nation or government, any local, municipal, county, state or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any court or arbitrator.

**“Guarantor”** has the meaning ascribed to such term in the Note.

**“Guarantor’s Notice Address”** has the meaning ascribed to such term in the Note.

**“Guarantor’s Documents”** shall have the meaning ascribed to such term in the Note.

**“Hazardous Material”** has the meaning ascribed to such term in Section 4.20(c) hereof.



**“Improvements”** means all buildings, structures and other improvements presently existing or hereafter constructed on the land described in Exhibit A attached hereto.

**“Indebtedness”** has the meaning ascribed to such term in Article III below.

**“Lease”** has the meaning ascribed to such term in Section 6.1 hereof.

**“Lessee”** has the meaning ascribed to such term in Section 6.1 hereof.

**“Liabilities”** has the meaning ascribed to such term in Article III below.

**“Lender’s Notice Address”** has the meaning ascribed to such term in the Note.

**“Loan”** means that certain mortgage loan from Mortgagee to Mortgagor evidenced by the Note, and secured by this Mortgage.

**“Loan Documents”** shall have the meaning ascribed to such term in the Note, and any and all other documents executed or delivered by or on behalf of Mortgagor or any Guarantor in connection with the Loan.

**“Material Adverse Change”** means a material adverse change, as determined by Mortgagee in its sole, but reasonable judgment and discretion, on: (a) the financial condition and/or operations of (i) the Mortgaged Property or (ii) Mortgagor or Guarantor; or (b) the appraised value of the Mortgaged Property as set forth in a current Appraisal; or (c) the status of title to, or the lien of this Mortgage upon, the Mortgaged Property.

**“Material Adverse Effect”** means a material adverse effect, as determined by Mortgagee in its sole, but reasonable judgment and discretion, on: (a) the financial condition and/or operations of (i) the Mortgaged Property or (ii) Mortgagor or Guarantor; or (b) the appraised value of the Mortgaged Property as set forth in a current Appraisal; or (c) the status of title to, or the lien of this Mortgage upon, the Mortgaged Property.

**“Mortgage Amount”** means the principal sum of **\$9,925,000.00**.

**“Mortgaged Property”** has the meaning ascribed to such term in Article II below.

**“Mortgagee”** shall have the meaning set forth in the Recitals hereof.

**“Mortgagor”** shall have the meaning set forth in the Recitals hereof.

**“Note”** means the Promissory Note bearing even date herewith in the Mortgage Amount made by Mortgagor in favor of Mortgagee, and any future amendments or modifications thereof, which Note is secured by this Mortgage.

**“Permitted Lease”** means any (a) any residential Lease, as such term is defined in Section 6.1 below, which is executed in accordance with commercially reasonable property management practices, and (b) any other Lease that has been approved in writing by Mortgagee.

**“Person”** means an individual, a partnership, a corporation, a limited liability company, a business trust, a joint stock company, a trust, an unincorporated association, a joint venture, a Governmental Authority or any other entity of whatever nature.

**“Premises”** means the land described in Exhibit A annexed hereto, together with the Improvements thereon and hereafter constructed thereon or therein, and all of the easements, rights, privileges, appurtenances and common elements, thereunto belonging or in any way appertaining thereto including, but not limited to, all of the estate, right, title, interest, claim or demand whatsoever of Mortgagor therein and in and to the strips and gores, streets and ways adjacent thereto, whether in law or in equity, in possession or expectancy, now or hereafter acquired and also any other realty or personalty encompassed by the term “Mortgaged Property”.

**“Principal Amount”** means the Mortgage Amount, as such amount may be reduced by payments made on account thereof.

**“Rent”** has the meaning ascribed to such term in Section 6.1 hereof.

**“Significant Person”** has the meaning ascribed to such term in Section 5.1(f) hereof.

**“Title Policy”** means that certain title insurance policy issued to Mortgagee, insuring this Mortgage as a first lien on the Premises.

#### Section 1.2 Other Definitional Provisions.

(a) All terms defined in this Mortgage shall have the meanings given such terms herein when used in the Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto, unless otherwise defined therein.

(b) As used in the Loan Documents and in any certificate or other document made or delivered pursuant hereto or thereto, accounting terms not defined in Section 1.1, and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP.

(c) The definitions given for any defined terms in this Mortgage shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. Unless the context otherwise requires, any references herein: (i) to “Schedules,” “Exhibits,” and “Sections” mean the Schedules, Exhibits, and Sections of this Mortgage; (ii) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder.

## ARTICLE II

### GRANTING CLAUSE

**NOW, THEREFORE**, Mortgagor, in consideration of the Premises, and in order to secure the Liabilities, hereby gives, grants, bargains, mortgages, grants a security interest in, and pledges to Mortgagee, all of Mortgagor's estate, right, title and interest in, to and under any and all of the following described property whether now owned or hereafter acquired (all such properties being collectively referred to as the "**Mortgaged Property**"):

A. All Mortgagor's right, title and interest in and to the Premises and all right, title and interest of Mortgagor in and to the Improvements on the Premises or to be constructed thereon and all fixtures and building materials of every kind and nature now or hereafter situated in, on or about, or affixed or attached to the Improvements or the Premises or any building, structure or other improvement now or hereafter standing, constructed or placed upon or within the Premises, and all and singular the tenements, hereditaments, easements, rights-of-way or use, air rights, development rights and other rights, privileges and appurtenances to the Premises, now or hereafter belonging or in any way appertaining thereto, including, without limitation, any such right, title, interest, claim and demand in, to and under any agreement granting, conveying or creating, for the benefit of the Premises, any easement, right or license in any way affecting other property and in, to and under any streets, ways, alleys, vaults, gores or strips of land adjoining the Premises, or any parcel thereof, and all claims or demands either in law or in equity, in possession or expectancy, of, in and to the Premises.

B. All right, title and interest of Mortgagor in and to all awards heretofore made or hereafter to be made for the taking by eminent domain of the whole or any part of the above described premises, or any estate or easement therein, including any awards for change of grade of streets, all of which awards are hereby assigned to Mortgagee, which is hereby authorized to collect and receive the proceeds of such awards and to give proper receipts and acquittances therefor and Mortgagee shall have the right and option to apply such excess towards the payment of any sum owing on account of this Mortgage, the Note and the indebtedness secured thereby, notwithstanding the fact that such sum may not then be due and payable.

C. The Chattels and the products and proceeds thereof.

D. All present and future Leases, subleases and licenses and any guarantees thereof, rents, issues and profits and additional rents now or at any time hereafter covering or affecting all or any portion of the Mortgaged Property and all proceeds of, and all privileges and appurtenances belonging or in any way appertaining to, the Mortgaged Property, or any part thereof, and all other property subjected or required to be subjected to the lien and/or security interest of the Mortgage, including, without limitation, all of the income, revenues, earnings, rents, maintenance payments, tolls, issues, awards (including, without limitation, condemnation awards and insurance proceeds), products and profits thereof, which income, revenues, earnings, rents, maintenance payments, tolls, issues, awards, products and profits are hereby expressly assigned with the right to take and collect the same upon the terms hereinafter set forth; and all the estate, right, title, interest and claim whatsoever, at law and in equity, which Mortgagor now has or may hereafter acquire in and

to the aforementioned property and every part thereof, provided that so long as no Event of Default shall have occurred and be continuing, all such income, revenues, earnings, rents, maintenance payments, tolls, issues, awards, products and profits shall remain with and under the control of Mortgagor except as otherwise expressly provided herein or in any other written agreement between Mortgagor and Mortgagee.

E. All contracts of sale now or hereafter entered into in connection with the Mortgaged Property or any part thereof and all right, title and interest of Mortgagor thereunder, including, without limitation, cash or securities deposited thereunder to secure performance of buyers of their obligations thereunder and also including the right upon the happening of an event of default thereunder to enforce the obligations of such buyers and to receive and collect the amounts deposited thereunder and any and all further amounts which may be due under such contracts of sale or due upon the consummation of such contracts of sale.

F. All right, title and interest of Mortgagor in and to all agreements, or contracts, now or hereafter entered into for the sale, leasing, brokerage, development, construction, management, maintenance and/or operation of the Premises (or any part thereof), including all moneys due and to become due thereunder, and all permits, licenses, bonds, insurance policies, plans and specifications relative to the construction and/or operation of the Improvements upon the Mortgaged Property.

G. All Mortgagor's rights and remedies at any time arising under or pursuant to Subsection 365(h) of the Bankruptcy Code, including, without limitation, all of Mortgagor's rights to remain in possession of the Premises.

H. All of Mortgagor's claims and rights to the payment of damages arising from any rejection of a Lease under or pursuant to the Bankruptcy Code.

I. Any other property and rights which are, by the provisions of any other Loan Document, required to be subject to the lien hereof, and any additional property and rights that may from time to time hereafter by installation in the Mortgaged Property, or by writing of any kind, or otherwise, be subjected to the lien hereof by Mortgagor or by anyone on its behalf.

J. All deposits in, and proceeds of, all operating accounts of Mortgagor maintained at Mortgagee and all other accounts pledged to Mortgagee herein or in any other Loan Document.

K. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards, all right, title and interest of Mortgagor in and to all unearned premiums accrued, accruing and to accrue under any or all insurance policies obtained by Mortgagor, and all rights of Mortgagor to refunds of real estate taxes and assessments relating to the Mortgaged Property.

**TO HAVE AND TO HOLD** the Mortgaged Property, whether now or hereafter existing, together with all the rights, privileges and appurtenances thereunto belonging or in any way appertaining, unto Mortgagee and its successors and assigns, upon the terms, provisions and

conditions herein set forth, forever, and Mortgagor does hereby bind itself and its successors, legal representatives, and assigns to warrant and forever defend all and singular the Mortgaged Property unto Mortgagee and its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

### ARTICLE III

#### SECURED INDEBTEDNESS

This Mortgage, and all rights, titles, interests, liens, security interests, powers, privileges and remedies created hereby or arising hereunder or by virtue hereof, are given to secure the payment and performance of all indebtednesses, obligations and liabilities of Mortgagor arising under the Note, this Mortgage, and any renewals, extensions, amendments or modifications thereof, or any other Loan Document and any and all fees, costs or expenses incurred by Mortgagee, including, but not limited to, taxes, insurance premiums, recording expenses and attorneys' fees in connection with the closing of the Loan and the consummation thereof, all attorneys' fees and other costs in connection with the administration of the Loan, and after default all attorneys' fees and other costs in connection with the collection thereof, and all costs incurred of whatever nature by Mortgagee in the exercise of any rights hereunder or any other Loan Document and all other amounts payable by Mortgagor under the Note and this Mortgage (all of the foregoing indebtedness, obligations and liabilities being referred to herein as the "Liabilities" or "Indebtedness"). Notwithstanding anything to the contrary hereinabove set forth in this Article III or elsewhere in this Mortgage, the maximum amount of principal indebtedness secured by this Mortgage or which under any contingency may become secured hereby at any time hereafter is the Mortgage Amount together with interest thereon, and all amounts expended by Mortgagee to maintain the lien of this Mortgage or protect any of the Mortgaged Property, including without limitation, all amounts in respect of insurance premiums and real estate taxes, charges and assessments, litigation expenses to prosecute or defend the rights, remedies and lien of this Mortgage or title to the Mortgaged Property, and any costs, charges or amounts to which Mortgagee become subrogated upon payment, whether under recognized principles of law or equity or under express statutory authority, and any Future Advance made under this Mortgage in accordance with the provisions of Section 8.2 below.

### ARTICLE IV

#### PARTICULAR WARRANTIES, REPRESENTATIONS AND COVENANTS OF MORTGAGOR

Section 4.1 Warranties and Representations. Mortgagor hereby warrants and represents as follows:

(a) Mortgagor is the actual, record and beneficial owner and holder of a good and marketable title to an indefeasible fee estate in the Mortgaged Property, subject to no lien, charge or encumbrance, except such as are listed in the Title Policy. In addition to said fee estate, Mortgagor is the owner of all of the Mortgaged Property, and Mortgagor owns the Chattels free

and clear of liens and claims. This Mortgage is and will remain a valid and enforceable first lien on the Mortgaged Property subject only to the matters disclosed by the Title Policy.

(b) Mortgagor has full power and lawful authority to mortgage the Mortgaged Property in the manner and form herein done or intended hereafter to be done. Mortgagor will preserve such title, and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever.

(c) A portion of the Premises is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards. Mortgagor has flood hazard insurance in an amount equal to the maximum amount of such insurance available through the National Flood Insurance Program plus such greater amounts as Mortgagee shall require.

(d) Mortgagor is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Florida. The Mortgagor has full power, and the individual executing this Mortgage has full authority, to enter into, execute, deliver and carry out the terms of this Mortgage, to make the borrowings contemplated hereby, to execute, deliver and carry out the terms of the Note and Mortgage and the other Loan Documents, and to incur the obligations provided for herein and therein. Mortgagor is a "Single Purpose Entity", which, for purposes of this Mortgage, means that Mortgagor does not engage in a business other than owning and operating the Premises and incidental personal property and that Mortgagor (i) maintains its assets in a way which segregates and identifies such assets separate and apart from the assets of any other Person, (ii) holds itself out to the public as a separate legal entity from any other Person and (iii) conducts business solely in its own name, except for a loan owed by Mortgagor to another lender secured by a mortgage on the property located at 3271 W. Trade Avenue, Miami, FL 33133 (the "**Permitted Property**") of which Mortgagee is aware.

(e) The Mortgage Amount is the principal indebtedness owed hereunder by Mortgagor to Mortgagee without offset, counterclaim or defense by Mortgagor in any event whatsoever.

(f) No consent, authorization or approval of, filing with, notice to, or exemption by, the stockholders of Mortgagor, if any, any Governmental Authority or any other Person (except for those which have been obtained, made or given) is required to authorize, or is required in connection with the execution, delivery and performance of the Loan Documents or is required as a condition to the validity or enforceability of the Loan Documents. No provision of any applicable statute, law (including, without limitation, any applicable usury or similar law), rule or regulation of any Governmental Authority prevents the execution, delivery or performance of, or affects the validity of, the Loan Documents.

(g) This Mortgage and the other Loan Documents constitute the valid and legally binding obligations of Mortgagor enforceable in accordance with their respective terms.

(h) There are no actions, suits, arbitration proceedings or claims (whether or not purportedly on behalf of Mortgagor) pending or, to the knowledge of Mortgagor, threatened against Mortgagor, or maintained by Mortgagor at law or in equity, before any Governmental

Authority which (i) could reasonably be expected to have a Material Adverse Effect, or (ii) call into question the validity or enforceability of any of the Loan Documents.

(i) Mortgagor is not in default under any agreement to which it is a party or by which it or the Mortgaged Property is bound, the effect of which default could reasonably be expected to have a Material Adverse Effect.

(j) No provision of any existing mortgage, indenture, contract, agreement, statute, rule, regulation, judgment, decree or order binding on Mortgagor or affecting the Mortgaged Property conflicts with, or requires any consent which has not already been obtained under, or would in any way prevent the execution, delivery or performance of the terms of, the Loan Documents. The execution, delivery or carrying out of the terms of the Loan Documents will not constitute a default under, or result in the creation or imposition of, or obligation to create, any lien upon the Mortgaged Property pursuant to the terms of any such mortgage, indenture, contract or agreement.

(k) Mortgagor will, so long as it is owner of all or part of the Mortgaged Property, do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges under the laws of the state of its formation and will comply with all regulations, rules, statutes, orders and decrees of any Governmental Authority or court applicable to it or to the Mortgaged Property or any part thereof.

(l) Mortgagor agrees that it will not change, as applicable, its jurisdiction of organization, principal residence, place of business or, if more than one place of business, its chief executive office without giving prior written notice to Mortgagee.

#### Section 4.2 **Further Assurances.**

(a) Mortgagor will, at its sole expense, do, execute, acknowledge and deliver every further act, deed, conveyance, mortgage, assignment, notice of assignment, transfer or assurance as Mortgagee shall from time to time require, for the better assuring, conveying, assigning, transferring and confirming unto Mortgagee the property and rights hereby conveyed, mortgaged or assigned or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey, mortgage or assign to Mortgagee or for carrying out the intention or facilitating the performance of the terms of this Mortgage, and for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes Mortgagee to execute in the name of Mortgagor to the extent it may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, and renewals thereof, to evidence more effectively the lien hereof upon the Chattels.

(b) Mortgagor will, at its sole cost and expense, do, execute, acknowledge and deliver all and every such act, information report, return and withholding of monies as shall be necessary or appropriate to comply fully, or to cause full compliance, with all applicable information reporting and back-up withholding requirements of the Internal Revenue Code of 1986, as amended (including all regulations promulgated thereunder) in respect of the Premises and all transactions related to the Premises, and will at all times provide Mortgagee with

satisfactory evidence of such compliance and notify Mortgagee of the information reported in connection with such compliance.

**Section 4.3 Filings, Recordings, Payments etc.**

(a) Mortgagor will, at its expense, cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Chattels and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of Mortgagee in, the Mortgaged Property.

(b) Mortgagor will pay all taxes, filing, registration and recording fees, and all expenses incident to the execution, acknowledgment and recording of this Mortgage, any supplemental mortgage, any other Loan Document, and 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 arising out of or in connection with the execution and delivery of the Note, this Mortgage, any supplemental mortgage, any other Loan Document, any security instrument with respect to the Chattels or any instrument or further assurance (other than income, franchise or other similar taxes imposed on Mortgagee in respect of income derived by Mortgagee under the Note).

**Section 4.4 Payment of Sums Due.** Mortgagor will punctually pay the principal and interest and all other sums to become due in respect of this Mortgage, the Note, and any other Loan Document at the time and place and in the manner specified herein or in the Note or any other Loan Document, as applicable, according to the true intent and meaning thereof and without offset, counterclaim or defense, and without deduction or credit for any amount payable for taxes, all in immediately available funds.

**Section 4.5 After Acquired Property.** All right, title and interest of Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Mortgaged Property, hereafter acquired by or released to Mortgagor or constructed, assembled or placed by Mortgagor on the Premises, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described in the granting clauses hereof, but at any and all times Mortgagor will execute and deliver to Mortgagee any and all such further assurances, mortgages, conveyances or assignments thereof as Mortgagee may reasonably require for the purpose of expressing and specifically subjecting the same to the lien of this Mortgage.

**Section 4.6 Taxes, Fees, and Other Charges**

(a) Mortgagor, from time to time when the same shall become due, and prior to the date of imposition of interest or fee, will pay and discharge, or cause to be paid and discharged, all taxes of every kind and nature (including real and personal property taxes or payments in lieu



thereof pursuant to agreements with any Governmental Authority, and income, franchise, withholding, transfer or recordation taxes, profits and gross receipt 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 Premises or arising in respect of the occupancy, use or possession thereof. Nothing contained in this Section 4.6 shall prevent or preclude Mortgagor from contesting the validity of any such taxes, as Mortgagor may reasonably deem appropriate, by diligently pursued legal means, provided such contest does not in any way impair, or risk the impairment of, Mortgagee's security for the Loan.

(b) Mortgagor will, within fifteen (15) days after Mortgagee's request therefor, deliver to Mortgagee Mortgagor's certification of Mortgagor's payment of each real estate tax and assessment or payment in lieu thereof on the due date thereof, and this shall be supplemented by a copy of the duly receipted tax bill, which must be delivered to Mortgagee within sixty (60) days after the applicable tax or payment due date.

(c) Mortgagee may, at any time and from time to time, at its option, to be exercised by notice to Mortgagor, require the deposit by Mortgagor at the time of each payment of an installment of interest or principal under the Note of an additional amount sufficient to discharge the obligations under this Section 4.6 when they become due. The determination of the amount so payable and of the fractional part thereof to be deposited with Mortgagee, so that the aggregate of such deposit shall be sufficient for this purpose, shall be made by Mortgagee in its sole discretion. Such amounts shall be held by Mortgagee without interest to Mortgagor in an account acceptable to Mortgagee (which may or may not be a segregated account) and applied to the payment of the obligations in respect to which such amounts were deposited or, at the option of Mortgagee and subject to applicable law, to the payment of the Liabilities in such order or priority as Mortgagee shall determine, on or before the respective dates on which the same or any of them would become delinquent. If one month prior to the due date of any of the obligations under this subsection (c) the amounts then on deposit therefor shall be insufficient for the payment of such obligations in full, Mortgagor within ten (10) days after demand shall deposit the amount of the deficiency with Mortgagee. Nothing herein contained shall be deemed to affect any right or remedy of Mortgagee under the provisions of this Mortgage or of any statute or rule of law to pay any such amount and to add the amount so paid together with interest at the Default Rate to the Indebtedness.

(d) Mortgagor will timely pay or bond, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others which, if unpaid or unbonded, might result in, or permit the creation of, a lien on the Mortgaged Property 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 lien hereof shall be fully preserved, at the cost of Mortgagor, without expense to Mortgagee.

(e) Mortgagor will pay all taxes including, without limitation, any mortgage, transfer, gains, and recordation taxes (but not Mortgagee's income, franchise or similar taxes) imposed on Mortgagee by reason of its ownership of the Note or this Mortgage.

(f) Mortgagor shall indemnify and hold Mortgagee harmless from any and all tax claims which may be made against Mortgagee relative to the Loan or the Mortgaged Property (but not Mortgagee's income or franchise taxes or assessments in respect of income derived by Mortgagee under the Note).

Section 4.7 **Law Changes.** In the event of the present existence or the passage after the date of this Mortgage of any law of the United States of America or the State of Florida or any municipality thereof deducting from the value of real property for the purposes of taxation any lien thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgage for state or local purposes or the manner of collection of any such taxes and imposing a tax, either directly or indirectly, on this Mortgage, or the Note, the holder of this Mortgage and the debt which it secures shall have the right to declare the unpaid principal balance and the interest due on a date to be specified by not less than five (5) days written notice to Mortgagor, provided that such change materially and substantially impairs the security of this Mortgage. Mortgagee shall have a similar right if, at any time, the applicable usury laws prohibit collection of interest at the rates specified herein or in the Note, this Mortgage, or any other Loan Document.

Section 4.8 **Insurance Provisions; Required Coverages.**

Mortgagor agrees to at all times provide, maintain and keep in force at least the following policies of insurance. All coverages shall contain deductibles acceptable to Mortgagee (but in no event greater than 5% of the total insurable value for Wind and Earthquake) and shall be issued by financially sound and responsible insurance companies having a rating of "A-" VIII or better by A.M. Best Co., in Best's Rating Guide:

(a) Insurance against loss or damage to the Mortgaged Property by the risks covered by insurance of the type now known as "all risk" or "special form coverage," including Wind (including Named Storms), in an amount satisfactory to Mortgagee and in amount equal to one hundred percent (100%) of the "Full Replacement Cost," which for purposes of this Mortgage shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation. The policies of insurance carried in accordance with this subsection (a) shall be written on a Replacement Cost basis and (i) contain an agreed amount endorsement waiving all coinsurance provisions, (ii) carry a deductible approved by Mortgagee, from the loss payable for any casualty; (iii) contain "Ordinance or Law Coverage" if any of the Improvements or the use of the Mortgaged Property shall at any time constitute legal non-conforming structures or uses in amounts as required by Mortgagee and any other commercial property extensions that are customary for properties similar to the Premises, providing coverage for the loss to the undamaged portion of the Premises, demolition and debris removal, and increased costs of construction in amounts acceptable to Mortgagee;

(b) If any portion of the Mortgaged Property is currently or at any time in the future located in a federally designated "special flood hazard area" or other area with a high degree of flood risk, flood hazard insurance will be required in an amount equal to the maximum amount of such insurance available through the National Flood Insurance Program plus such greater amounts as Mortgagee shall require;

(c) If the Mortgaged Property is in an area identified by any governmental, engineering or any hazard underwriting agencies as being subject to the peril of earthquake or located in an area with a high degree of seismic activity, earthquake insurance will be required in an amount equal to 2x the probable maximum loss based on the Full Replacement Cost of the Mortgaged Property provided that the insurance pursuant to this subsection (c) shall be on terms consistent with the all risk insurance policy required under subsection (a);

(d) Commercial general liability insurance, including coverage for elevators and escalators, if any, on the Premises, completed operations coverage on an “if any” basis, and, if any construction of new Improvements occurs after execution of this Mortgage, continuing for ten (10) years after construction of the Improvements has been completed, and contractual liability covering the indemnities contained in this Mortgage to the extent the same is available. Such coverage shall be written on an “occurrence basis” against claims for personal injury including, without limitation, bodily injury (including mental anguish), death or property damage occurring on, in or about the Premises and the adjoining streets, sidewalks and passageways, such insurance to afford immediate minimum protection with coverage limits in amounts acceptable to the Mortgagee, but in no event less than an occurrence limit of not less than One Million Dollars (\$1,000,000.00) and an aggregate limit of not less than Two Million Dollars (\$2,000,000.00);

(e) Worker’s compensation insurance including employer’s liability insurance for all employees of Mortgagor, if any, engaged on or with respect to the Premises with a limit of at least One Million Dollars (\$1,000,000) per accident and per disease per employee, and One Million Dollars (\$1,000,000) for disease aggregate;

(f) During the course of any demolition, construction, renovation or repair of Improvements on the Mortgaged Property, and only if the Property and Liability coverage forms do not otherwise apply, (i) owner’s contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy plus excess/umbrella liability in amounts as required by Mortgagee; and (ii) the insurance required in this Section 4.8 written on a builder’s risk completed value form, including coverage for 100% of the total insurable costs of construction, including soft costs and delayed completion in amounts as required by Mortgagee (A) on a non-reporting basis, (B) against all risks insured against pursuant to subsection (a) above as well as coverage for collapse and property in transit and stored off site, (C) including permission to occupy the Premises, (D) with an agreed amount endorsement waiving co-insurance provisions, and (E) with deductibles satisfactory to Mortgagee. Any and all contractors, subcontractors and design professionals shall maintain coverage with terms and conditions and with limits acceptable to Mortgagee and shall name Mortgagee as required;

(g) Boiler and machinery insurance or “Equipment Breakdown” insurance covering pressure vessels, air tanks, boilers, machinery, pressure piping, heating, air conditioning and elevator equipment and escalator equipment, provided the Improvements contain equipment of such nature, and insurance against loss of occupancy or use arising from any such breakdown, in such amounts as are satisfactory to Mortgagee and on terms consistent with the insurance policies required under subsection (a) above;

(h) Rent loss and business interruption coverage, if required by Mortgagee, (i) with loss payable to Mortgagee; (ii) covering all risks required to be covered by the insurance provided for in this Section 4.8 for a period commencing at the time of loss and continuing for such length of time as it takes to repair or replace with the exercise of due diligence and dispatch, but in no event less than eighteen (18) months; (iii) containing an extended period of indemnity endorsement which provides that after the physical loss to the Mortgaged Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Mortgaged Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period; and (iv) in an amount equal to one hundred percent (100%) of the projected gross income / gross rents from the Mortgaged Property for a period from the date of loss to a date (assuming total destruction) which is twelve (12) months from the date that the Mortgaged Property is repaired or replaced and operations are resumed. The amount of such business income insurance shall be determined prior to the date hereof and at least once each year thereafter based on Mortgagor's reasonable estimate of the gross income from the Premises for the succeeding twelve (12) month period. Notwithstanding anything to the contrary herein, all proceeds payable to Mortgagee pursuant to this subsection shall be held by Mortgagee and shall be applied to the obligations secured by the Loan Documents from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Mortgagor of its obligations to pay the obligations secured by the Loan Documents on the respective dates of payment provided for in the Note and the other Loan Documents except to the extent such amounts are actually paid out of the proceeds of such business income insurance;

(i) Terrorism insurance for any act of terrorism (as such term is defined in the Terrorism Risk Insurance Program Reauthorization Act of 2015 ("TRIPRA") or similar or subsequent statute), if required by Mortgagee, which shall be in form and substance satisfactory to Mortgagee, and which may be in the form of a separate policy or included in the Mortgagor's commercial general liability, umbrella/excess liability or property insurance policies, provided that in either event such insurance shall be in an amount equal to the full replacement cost of the Premises plus no less than twelve (12) months of business interruption coverage. If TRIPRA or a similar or subsequent statute is not in effect, then provided that terrorism insurance is commercially available, Mortgagor shall be required to carry terrorism insurance throughout the term of the Loan as required by the preceding sentence, but in such event Mortgagor shall not be required to spend on terrorism insurance coverage more than a commercially reasonable amount (and if such coverage is not available for a commercially reasonable amount, Mortgagor shall purchase the maximum amount of terrorism insurance available for a commercially reasonable amount). For purposes of this subsection (i), the determination of a commercially reasonable amount shall take into account the size, location and use of the Premises and the amounts paid with respect to terrorism coverage by the owners of properties similar to the Premises;

(j) Liquor liability insurance required in connection with the sale of alcoholic beverages in amounts as required by Mortgagee, if sold or distributed at the Premises;

(k) Auto liability coverage for all hired, owned and non-owned vehicles, including rented and leased vehicles in amounts as required by Mortgagee (if applicable);

(l) Such other insurance, and in such amounts, as may from time to time be required by Mortgagee against other hazards which at the time are commonly insured against for property similar to the Mortgaged Property located in or around the region in which the Mortgaged Property is located; and

(m) All liability policies of insurance relating to property required by terms of this Mortgage shall be primary and non-contributory and shall name Mortgagor as the Named Insured and, except for the policy referenced in Section 4.8(e), shall name the Mortgagee and its successors and/or assigns as its interests may appear as the additional insured and, in the case of property coverage, including but not limited to boiler and machinery, builders risk, flood, earthquake and terrorism insurance, shall contain a standard non-contributory mortgagee and lender's loss payable endorsement providing an agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor which might otherwise result in forfeiture of such insurance and the further agreement of the insurer waiving all rights of set off, counterclaim or deductions against Mortgagor. Any blanket insurance policy shall specifically allocate to the Mortgaged Property the amount of coverage from time to time required hereunder or shall otherwise provide the same protection as would a separate policy insuring only the Mortgaged Property in compliance with the provisions of this Mortgage. Mortgagee's approval of any blanket policy remains subject to a review of the schedule of locations and values under the policy.

#### **Section 4.9 Miscellaneous Insurance Related Provisions.**

(a) All policies of insurance shall be issued by companies and in amounts satisfactory to Mortgagee and all policies of property insurance shall contain the standard non-contributory mortgagee clause referred to in Section 4.8(m) above in favor of Mortgagee, not subject to contribution or co-insurance, and lender's loss payable endorsement for the benefit of Mortgagee, all in form reasonably satisfactory to Mortgagee. Mortgagor shall furnish Mortgagee with a signed duplicate original policy with respect to all required insurance coverage. At least thirty (30) days prior to the expiration of each such policy, Mortgagor shall furnish Mortgagee with evidence satisfactory to Mortgagee of the payment of premium and the reissuance of a policy continuing insurance in force as required by this Mortgage. All such policies, including policies for any amounts carried in excess of the required minimum and policies not specifically required by Mortgagee, shall be in form satisfactory to Mortgagee, shall be maintained in full force and effect, shall be assigned and delivered to Mortgagee, with premiums prepaid, as collateral security for payment of all obligations of Mortgagor secured hereby, and shall contain a provision that such policies will not be cancelled or amended, without at least thirty (30) days prior written notice to Mortgagee and at no time shall there be any reduction in the scope or limits of coverage unless Mortgagee approves, in advance. If the insurance, or any part thereof, shall expire, or be withdrawn, or become void for any reason, or if for any reason whatsoever the insurance shall be unsatisfactory to Mortgagee, Mortgagor shall immediately upon learning of such expiration or termination, notify Mortgagee and place new insurance on the Premises, satisfactory to Mortgagee.

(b) In the event Mortgagor fails to provide, maintain, keep in force or deliver and furnish to Mortgagee the policies of insurance required by this Mortgage, Mortgagee may procure such insurance or single-interest insurance for such risks covering Mortgagee's interest,

and Mortgagor will pay all premiums thereon promptly upon demand by Mortgagee, and until such payment is made by Mortgagor the amount of all such premiums, together with interest thereon at the Default Rate shall be secured by the Mortgage.

(c) After the happening of any casualty to the Mortgaged Property or any part thereof, Mortgagor shall give prompt written notice thereof to Mortgagee, and Mortgagee may make proof of loss if not made promptly by Mortgagor. In the event of such loss or damage all proceeds of insurance shall be payable to Mortgagee and Mortgagee shall have the right to join Mortgagor in adjusting or compromising any claims for loss, damage or destruction in excess of \$50,000 under any policy or policies of insurance. Each insurance company concerned is hereby authorized and directed to make payment under such insurance, including return of unearned premiums, directly to Mortgagee instead of to Mortgagor and Mortgagee jointly, and Mortgagor irrevocably appoints Mortgagee as Mortgagor's attorney-in-fact to endorse any draft therefor in the event Mortgagor fails to promptly make proof of such loss.

(d) Nothing herein contained shall be deemed to excuse Mortgagor from repairing or maintaining the Premises as provided in Section 4.15 hereof or restoring all damage or destruction to the Mortgaged Property, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount, and the application or release by Mortgagee of any insurance proceeds shall not cure or waive any default or notice of default under the Mortgage or invalidate any act done pursuant to such notice, provided, however, that Mortgagee shall give Mortgagor an opportunity to repair or restore the Mortgaged Property using Mortgagor's own funds to supplement those received from the insurance proceeds.

(e) Any monies in an amount of \$50,000 or less received as payment for any loss under any insurance shall be paid over to Mortgagor to be applied by Mortgagor for restoration of the Mortgaged Property. Any monies in excess of \$50,000 received as payment for loss under any insurance shall be paid over to Mortgagee to be applied at the option of Mortgagee to the prepayment of the Note and/or for the restoration of the Mortgaged Property. Receipt by Mortgagee and application in reduction of Indebtedness of any insurance proceeds less than the full amount of the then outstanding Liabilities shall not defer, alter or modify Mortgagor's obligation to continue to pay the regular installments of principal, interest on the Principal Amount, and other charges specified in the Note and herein.

(f) In the event of foreclosure of this Mortgage or other transfer of title or assignment of the Premises in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Mortgagor in and to all policies of insurance required by Section 4.8 and this Section shall to the extent permitted under said policies inure to the benefit of and pass to the successor in interest to Mortgagor or the purchaser or grantee of the Premises.

(g) Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under Section 4.8, unless Mortgagee has approved the insurance company and the form and content of the insurance policy, including, without limitation, the naming thereon of Mortgagee as a mortgagee and lender's loss payee under a standard mortgagee and lender's loss payable endorsement of the character above described and the inclusion of a provision therein obligating said insurance company to provide

Mortgagee with notice thirty (30) days prior to cancellation, lapse or material alteration of any policy. Upon approval by Mortgagee, Mortgagor shall immediately notify Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to Mortgagee satisfactory evidence of said insurance and, upon receipt, shall deliver a certified copy of the policy or policies of such insurance.

(h) If a part of the Mortgaged Property shall be destroyed by fire, flood or other casualty, and if Mortgagee shall have decided in its sole, but reasonable discretion to permit Mortgagor to use the insurance proceeds for the restoration of the Mortgaged Property, then Mortgagor may use such proceeds to restore the Mortgaged Property, provided that (i) the net insurance proceeds are sufficient in the opinion of Mortgagee on advice from its architect to restore the Mortgaged Property, or if such proceeds are insufficient to restore the Mortgaged Property, Mortgagor shall have deposited with Mortgagee cash in an amount equal to the difference between the cost of such restoration and such proceeds, (ii) there shall exist no Event of Default, nor any event which, after notice or the passage of time, would become an Event of Default, (iii) in the opinion of Mortgagee on advice from its architect the Mortgaged Property can be completely restored within one hundred eighty (180) days from the occurrence of such casualty or by the Maturity Date (as defined in the Note), or such longer time period approved by Mortgagee, whichever occurs first, (iv) annual gross and net income of the Mortgaged Property are projected by Mortgagee to remain the same (or to be higher) after the restoration as compared to the last full year prior to the casualty, and (v) the loan to value ratio of the Loan at the time of restoration shall not be greater than the previously existing loan to value ratio that was based upon the Appraisal delivered in connection with the making of the Mortgage, which loan to value ratio with respect to the proposed restoration of the Mortgaged Property shall be based upon a new current Appraisal to be prepared by Mortgagee or by an Appraiser, the entire cost of such Appraisal shall be paid by Mortgagor. In the event insurance proceeds are used to repair or restore the Mortgaged Property pursuant to this Section, Mortgagor shall obtain, at its sole cost and expense, an architect who shall submit plans to Mortgagee for the repair or restoration of the Mortgaged Property indicating that such repair or restoration can be completed within the period provided for herein, together with a budget itemizing the projected costs of such repair or restoration. Said plans and budget are subject to the approval of Mortgagee, which approval shall not be unreasonably denied or withheld. Mortgagor shall also obtain and post, at its sole cost and expense, all necessary federal, state and local permits and approvals prior to the commencement of such repair or restoration. Mortgagor agrees that all insurance proceeds to be used to repair or restore the Mortgaged Property shall be held by Mortgagee and disbursed periodically: (i) on advice from Mortgagee's architect (who shall be employed by Mortgagee at Mortgagor's sole expense) that the work completed or materials installed conform to said budget and plans, as approved by Mortgagee; (ii) upon presentment of receipted bills and releases satisfactory to Mortgagee; and (iii) any such proceeds not needed to complete restoration shall be applied by Mortgagee as a prepayment on account of the Principal Amount in reduction thereof. The expenses incurred by Mortgagee, including architects' and attorneys' fees, and all soft and hard costs in connection with such restoration, shall be paid by Mortgagor to the extent insurance proceeds are insufficient to pay same. At no time shall Mortgagee be obligated to disburse any funds if the undisbursed balance is, in the opinion of Mortgagee based on advice from its architect, insufficient to timely complete the restoration of the Mortgaged Property free and clear of all liens and Mortgagor fails or declines to provide the funds



necessary to maintain, repair or restore the Mortgaged Property covered by such liens in accordance with the terms and provisions of the Loan Documents. Mortgagor agrees to post such bonds, obtain such guaranteed maximum price general contract agreement and/or enter into such agreements and arrangements as Mortgagee may require to ensure lien-free completion of such repairs or restoration by the end of the period provided herein for completion of such repairs or restoration. Any insurance proceeds which exceed the amount necessary to complete such restoration shall be paid to Mortgagee and applied to the Liabilities in such order and priority as Mortgagee shall determine.

Section 4.10 **Condemnation.**

(a) In the event the Mortgaged Property or any part thereof or interest therein, be taken or damaged by eminent domain, alteration of the grade of any street, or other injury to or decrease in the value of the Mortgaged Property, by reason of any public or quasi-public improvement or condemnation proceeding, or in any other similar manner ("**Condemnation**"), or should Mortgagor receive any notice or other information regarding such Condemnation or a proposed Condemnation, Mortgagor shall give prompt written notice thereof to Mortgagee.

(b) Mortgagee shall be entitled to receive all compensation, awards and other payments or relief payable as a result of any such Condemnation up to the Principal Amount at the time of such compensation, awards and other payments, and shall be entitled, at its option, to participate in any Condemnation proceedings. Mortgagor shall execute and deliver to Mortgagee, promptly upon request therefor, all instruments necessary to enable Mortgagee to participate in any such proceedings, employing on Mortgagee's behalf, at Mortgagor's sole expense, such counsel as Mortgagee shall select. Mortgagee shall also be entitled to join in any compromise or settlement in connection with any such Condemnation. All such compensation, awards, damages, rights of action and proceeds awarded to Mortgagor (the "**Proceeds**") are hereby assigned to Mortgagee and Mortgagor agrees to execute such further assignments of the Proceeds as Mortgagee may require. Mortgagee shall be under no obligation to question the amount of any such award or compensation and may accept the same in the amount paid.

(c) Nothing herein contained shall be deemed to excuse Mortgagor from repairing or maintaining the Premises as provided in Section 4.13 hereof or restoring all damage or destruction to the Mortgaged Property, regardless of whether or not there are Proceeds available or whether any such Proceeds are sufficient in amount, and the application or release by Mortgagee of any Proceeds shall not cure or waive any default or notice of default under this Mortgage or invalidate any act done pursuant to such notice.

(d) Any monies received as a condemnation award shall be paid over to Mortgagee to be applied at the option of Mortgagee to the prepayment of the Note and/or for the restoration of the Mortgaged Property. Receipt by Mortgagee and application in reduction of indebtedness of any Proceeds less than the full amount of the then outstanding Liabilities shall not defer, alter or modify Mortgagor's obligation to continue to pay the regular installments of principal, interest on the Principal Amount and other charges specified in the Note and herein.

(e) If prior to the receipt of the Proceeds by Mortgagee the Premises shall have been sold on foreclosure of this Mortgage, Mortgagee shall, nevertheless, have the right to receive the Proceeds and to retain, for its own account, (i) an amount equal to the counsel fees, costs and disbursements incurred by Mortgagee in connection with collection of the Proceeds and not repaid by Mortgagor and (ii) the full amount of all such Proceeds, if Mortgagee is the successful purchaser at the foreclosure sale, to the extent of amounts owed under the Note or hereunder.

(f) If at any time there shall occur a partial condemnation or partial taking, and if Mortgagee shall have decided in its sole discretion to permit Mortgagor to use the Proceeds for the restoration of the Mortgaged Property, then Mortgagor may use such Proceeds to restore the Mortgaged Property, provided that (i) the net Proceeds are sufficient in the opinion of Mortgagee on advice from its architect to restore the Mortgaged Property, or if such Proceeds are insufficient to restore the Mortgaged Property, Mortgagor shall have deposited with Mortgagee cash in an amount equal to the difference between the cost of such restoration and such Proceeds, (ii) there shall exist no Event of Default, nor any event which, after notice or the passage of time, would become an Event of Default, (iii) in the opinion of Mortgagee on advice from its architect the Mortgaged Property can be completely restored within one hundred eighty (180) days from the occurrence of such partial condemnation or taking, or by the Maturity Date, or such longer time period approved by Mortgagee, whichever occurs first, (iv) annual gross and net income of the Mortgaged Property, as projected by Mortgagee, shall remain the same (or be higher) after the restoration as compared to the last full year prior to such partial condemnation or taking, (v) Mortgagee shall determine, based on advice from its architect, that the contemplated restoration of the Mortgaged Property shall, when completed, render the Mortgaged Property a complete, economically viable architectural unit of substantially the same usefulness, design and construction and fully functional for the same purposes and uses as existed prior to the condemnation; and (vi) the loan to value ratio of the Loan at the time of restoration shall not be greater than the loan to value ratio based upon the existing Appraisal that was delivered in connection with the making of this Mortgage, which loan to value ratio with respect to the proposed restoration of the Mortgaged Property shall be based upon a new current Appraisal, the entire cost of such Appraisal shall be paid by Mortgagor. In the event the Proceeds are used to repair or restore the Mortgaged Property pursuant to this Section, Mortgagor shall obtain, at its sole cost and expense, an architect who shall submit plans to Mortgagee for the restoration of the Mortgaged Property indicating that such restoration can be completed within the period provided for herein, together with a budget itemizing the projected costs of such restoration. Said plans and budget are subject to the approval of Mortgagee, which approval shall not be unreasonably denied or withheld. Mortgagor shall also obtain and post, at its sole cost and expense, all necessary federal, state and local permits and approvals prior to the commencement of such restoration. Mortgagor agrees that condemnation awards to be used to restore the Mortgaged Property shall be held by Mortgagee and disbursed periodically: (i) on advice from Mortgagee's architect (who shall be employed by Mortgagee at Mortgagor's sole expense) that the work completed or materials installed conform to said budget and plans, as approved by Mortgagee; (ii) upon presentment of receipted bills and releases satisfactory to Mortgagee; and (iii) any such proceeds not needed to complete restoration shall be applied by Mortgagee as a prepayment on account of the Principal Amount in reduction thereof. The expenses incurred by Mortgagee, including architects' and attorneys' fees, and all soft and hard costs in connection with such restoration, shall be paid by

Mortgagor to the extent the Proceeds are insufficient to pay same. At no time shall Mortgagee be obligated to disburse any funds if the undisbursed balance is, in the opinion of Mortgagee based on advice from its architect, insufficient to timely complete the restoration of the Mortgaged Property free and clear of all liens. Mortgagor agrees to post such bonds, obtain such guaranteed maximum price general contract agreement and/or enter into such agreements and arrangements as Mortgagee may require to ensure lien-free completion of such repairs or restoration by the end of the period provided herein for completion of such repairs or restoration. Any Proceeds from a Condemnation which exceed the amount necessary to complete such restoration shall be paid to Mortgagee and applied to the Liabilities in such order and priority as Mortgagee shall determine.

**Section 4.11 Mortgagee's Payment or Performance of Mortgagor's Obligations.** Mortgagor agrees that if it fails to make, or cause to be made, any payment or to do, or cause to be done, any act as herein provided after notice or grace periods, if any, as provided herein, then Mortgagee may, but shall not be obligated to, make such payment or undertake such act, Mortgagee being authorized to enter upon the Premises for such purposes, and any money so paid and any expenses incurred by Mortgagee shall be a demand obligation of Mortgagor, shall bear interest at the Default Rate from the date of making such payment until paid and shall be part of the Indebtedness, and Mortgagee after making such payment shall be subrogated to all rights of the person receiving payment. The provisions of this Section 4.11 shall not prevent any default in the observance of any covenant contained herein or in the Note or any other Loan Document from constituting an Event of Default.

**Section 4.12 Mortgagor's Records and Inspection Thereof.** Mortgagor will keep adequate records and books of account in accordance with generally accepted accounting principles and will permit Mortgagee, its agents, accountants and attorneys, to visit and inspect the Premises and examine its records and books of account and to discuss its affairs, finances and accounts with Mortgagor upon reasonable notice and at such reasonable times as may be requested by Mortgagee.

**Section 4.13 Waste, Maintenance, Repairs, Alterations.** Mortgagor will not threaten, commit, permit or suffer any waste to occur on or to the Mortgaged Property or any part thereof or alter or demolish the Mortgaged Property or any part thereof in any manner or make any change in its use or any change which will in any way increase any risk of fire or other hazards arising out of construction or operation of the Mortgaged Property. Mortgagor will, at all times, maintain the Mortgaged Property in good operating order and condition and will promptly make, from time to time, all repairs, renewals, replacements, additions and improvements in connection therewith which are needful or desirable to such end. Any improvements which may now or hereafter be located on the Premises shall not be removed, demolished or substantially altered, nor shall any Chattels be removed, without the prior written consent of Mortgagee, except where the appropriate replacements free of superior title, liens and claims are immediately made of value at least equal to the value of the Chattels removed, in which event Mortgagor shall be entitled to proceeds of the Chattels so removed, and except as may be required in the ordinary course for the operation and maintenance of the Premises.

**Section 4.14 Enforcement Expenses.** Except where inconsistent with the laws of the State of Florida, Mortgagor agrees that if any action or proceeding be commenced, including an

action to foreclose this Mortgage or to collect the indebtedness hereby secured, to which action or proceeding Mortgagee is made a party by reason of the execution of this Mortgage or the Note, or in which it becomes necessary to defend or uphold the lien of this Mortgage or to foreclose this Mortgage, all sums paid by Mortgagee for the expense of any litigation to prosecute or defend the transaction and the rights and liens created hereby or to foreclose this Mortgage (including reasonable attorneys' fees) shall be paid by Mortgagor together with interest thereon from date of payment by Mortgagee at the Default Rate. All such sums paid and the interest thereon shall be immediately due and payable, shall be a lien upon the Mortgaged Property, and shall be secured hereby as shall be all such sums incurred in connection with enforcement by Mortgagee of its rights hereunder or under any other Loan Document.

Section 4.15 **Adequate Facilities.** Mortgagor covenants that the Mortgaged Property is now, and until the Liabilities are fully repaid, will be, provided with adequate gas, sanitary sewer, storm sewer, electricity, water and other facilities necessary for the use, occupancy and operation of the Premises for their intended purposes, and Mortgagor will at all times comply with all applicable laws and regulations relating to said facilities.

Section 4.16 **Defense of Mortgagee's Interests.** If the interest of Mortgagee in the Mortgaged Property or any part thereof or the lien or security interest of this Mortgage thereon shall be attacked, directly or indirectly, or if legal proceedings shall be instituted against Mortgagor or Mortgagee with respect thereto or against Mortgagor, Mortgagor, upon its learning thereof, will promptly give written notice thereof to Mortgagee and Mortgagor will, at Mortgagor's cost and expense, exert itself diligently to cure, or will cause to be cured, any defect that may be developed or claimed and will take all necessary and proper steps for the protection and defense thereof and will take, or will cause to be taken, such action as is appropriate to the defense of any such legal proceedings, including, but not limited to, the employment of counsel and the prosecution and defense of litigation.

Section 4.17 **No Impairment of Security.** In no event shall Mortgagor do or permit to be done, or omit to do or permit the omission of, any act or thing, the doing or omission of which would materially impair the security of this Mortgage or materially impair the value of the Mortgaged Property or any part thereof.

Section 4.18 **Restriction Against Transfer, Mortgage, Conveyance, Sale, Change in Management, No Other Debt, Etc.**

(a) Mortgagor will not, directly or indirectly, transfer, mortgage, convey, sell, assign, lease (except for a Permitted Lease), pledge or encumber the Mortgaged Property, or any part thereof or any direct or indirect interest therein, without the express prior written consent of Mortgagee, which consent shall not be unreasonably denied or withheld. Mortgagor shall not, directly or indirectly, create, incur, assume or suffer to exist any liability for indebtedness (including subordinated indebtedness), whether secured or unsecured, except indebtedness due with respect to the Loan and trade payables incurred in the ordinary course of business. Neither the structure of Mortgagor nor the direct or indirect ownership of Mortgagor may be pledged or changed from that existing on the date hereof (it being agreed that this clause shall be deemed to constitute a prohibition on any so-called "mezzanine financing"), nor may Mortgagor consolidate

with, be acquired by, or merge into or with any Person, without the express prior written consent of Mortgagee, which consent shall not be unreasonably denied or withheld. Mortgagor shall not change the management structure of the Mortgagor or the Premises, nor shall Mortgagor enter into any management and/or leasing agency or similar agreements with respect to the Premises without the prior written consent of Mortgagee, which consent shall not be unreasonably denied or withheld. Any management and leasing agent(s) for the Mortgaged Property must be approved by the Mortgagee and thereafter may not be changed without the Mortgagee's prior written consent. If the Mortgaged Property is managed by an affiliate of the Mortgagor, such affiliate must subordinate its management fees pursuant to an agreement acceptable in all respects to the Mortgagee. Notwithstanding anything in this Mortgage to the contrary, transfers made to the members of the immediate family of the existing members of the Borrower for estate tax planning purposes which do not result in a significant change in control of the existing management of the Mortgagor shall not be prohibited, however, shall be subject to the Mortgagee's express prior written consent, which consent shall not be unreasonably denied or withheld.

(b) In the event of any sale, conveyance, transfer, pledge or further encumbrance, by operation of law or otherwise, of all or any part of the Mortgaged Property, of any interest therein, or in the event of any change in the ownership or composition of Mortgagor, or any further assignment of rents from the Mortgaged Property, or any lease of the Mortgaged Property in whole or in part (except for a Permitted Lease), without the prior written consent of Mortgagee, then, at Mortgagee's option, Mortgagee may declare the Loan to be due and payable immediately, and upon such declaration the Loan shall immediately become due and payable without demand or notice. Except as provided above in Section 4.18(a), Mortgagee's consent shall be within its sole and absolute discretion, and Mortgagee specifically reserves the right to condition its consent upon (by way of illustration but not by way of limitation) its approval of the financial and/or management ability of the purchaser, transferee, lessee, pledgee or assignee, upon an agreement to escalate the interest rate of the Note to Mortgagee's then current interest rate for similarly situated properties, upon the assumption of the obligations and liabilities of the Note and this Mortgage by the purchaser, transferee, lessee, pledgee or assignee, upon the receipt of guarantees of the Loan satisfactory to Mortgagee and/or additional collateral satisfactory to Mortgagee and upon payment to Mortgagee of an assumption fee. Mortgagor covenants and agrees that it shall not take any of the actions, or suffer any of the events, that would be a cause for acceleration of the Loan pursuant to this Section, without the prior written consent of Mortgagee.

(c) Any purchaser, transferee, lessee, pledgee or assignee referred to in Section 4.18(b) shall be deemed to have assumed and agreed to pay the Loan and to have assumed and agreed to be bound by the terms and conditions of this Mortgage (including, without limitation, the terms of this Article and the exculpation provisions of Article V hereof) unless Mortgagee specifically agrees in writing to the contrary. Mortgagor agrees that, in the event ownership of all or any part of the Mortgaged Property becomes vested in a person other than Mortgagor, Mortgagee may, without notice to the Mortgagor, deal in any way with such successor or successors in interest with reference to this Mortgage, the other Loan Documents and the indebtedness, without in any way vitiating or discharging Mortgagor's liability with respect thereto. No sale, conveyance, transfer, pledge, encumbrance, assignment or lease referred to in Section 4.18(b), and no forbearance, extension or assumption by or to any person with respect to

the Indebtedness or any of the Loan Documents, shall operate to release, discharge, modify, change or affect the liability of Mortgagor either in whole or in part, unless Mortgagee specifically agrees in writing to the contrary.

Section 4.19 **Mortgagee's Defense.** Mortgagee may appear in and defend any action or proceeding at law or in equity or in bankruptcy purporting to affect the Premises or the security hereof or the rights and powers of Mortgagee, and any appellate proceedings, and in such event Mortgagor shall pay all of Mortgagee's costs, charges and expenses, including cost of evidence of title and attorneys' fees incurred in such action or proceeding. All costs, charges and expenses so incurred, together with interest thereon at the Default Rate from the date of payment of same by Mortgagee as aforesaid, shall be secured by the lien of this Mortgage and shall be due and payable upon demand.

Section 4.20 **Hazardous Materials.**

(a) Mortgagor will perform and comply promptly with, and cause the Premises to be maintained, used and operated in accordance with, all applicable federal, state and local laws pertaining to air and water quality, hazardous waste, waste disposal, air emissions and other environmental matters. If Mortgagor receives any notice that Mortgagor or the Premises is in default under or is not in compliance with any of the foregoing, or notice of any proceeding initiated under or with respect to any of the foregoing, Mortgagor will promptly furnish a copy of such notice to Mortgagee.

(b) Mortgagor hereby represents and warrants to Mortgagee that, except as may be set forth in any environmental report delivered to Mortgagee in connection with the making of the Loan: (i) no Hazardous Material (as hereinafter defined) has been generated, treated, stored (other than Operating Supplies (as hereinafter defined)) or disposed of, or otherwise deposited in or located on, under or about the Mortgaged Property, including without limitation the surface and subsurface waters of the Mortgaged Property; (ii) no activity has been undertaken on the Mortgaged Property which would cause any Hazardous Material to be generated, treated, stored or disposed of, or otherwise deposited in or located on, under or about the Mortgaged Property or any surface or subsurface waters thereof in violation of any applicable environmental law; (iii) no claim under any applicable environmental law is pending or threatened and no fee arising under any applicable environmental law has been assessed against Mortgagor, the Mortgaged Property or any Person whose liability for any such claim the Mortgagor may be legally or contractually liable, and no investigation or review is pending or threatened by any Governmental Authority, citizens group or other Person with respect to any alleged violation by Mortgagor of, or failure of the Mortgaged Property to be in compliance with, any applicable environmental law with respect to the Mortgaged Property; (iv) Mortgagor is in possession of all environmental, health and safety permits, licenses and other governmental authorizations required in connection with the ownership of the Mortgaged Property; (v) there are no substances or conditions in or on the Mortgaged Property which may support a claim or cause of action under RCRA, CERCLA, TSCA, CAA or CWA (as such terms are defined below) or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements; (vi) no underground storage tanks now or previously containing any Hazardous Material, or underground deposits of any Hazardous Material, are located on or under the Mortgaged Property; (vii) no asbestos is

located on the Mortgaged Property; and (viii) there have been no environmental investigations, studies, audits reviews or other analyses conducted by, or that are in the possession of, Mortgagor in relation to the Mortgaged Property which have not been made available to Mortgagee.

(c) The term “**Hazardous Material**” means, collectively (i) any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto and replacements therefor; (ii) such substances, materials or wastes as are regulated by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et. seq. (“**RCRA**”), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Liability Act, 42 U.S.C. §9601 et. seq. (“**CERCLA**”), the Toxic Substance Control Act, 15 U.S.C. §2601 et seq. (“**TSCA**”), the Clean Air Act, 42 U.S.C. §7401 et seq. (“**CAA**”), the Clean Water Act, 33 U.S.C §1251 et. seq. (“**CWA**”), and all amendments to any of the foregoing laws, and all orders, regulations, directions and requirements thereunder; (iii) asbestos; and (iv) such toxic or hazardous substances, materials or wastes that are or may become regulated under any other applicable municipal, county, state or federal law, rule, ordinance, direction, or regulation, such as Florida Statutes Chapters 376, 403 and 404. The term “**Operating Supplies**” means such materials which may be Hazardous Material such as cleaning materials and fuel oil used in the ordinary course in the operation and maintenance of the Premises and in compliance with all environmental laws and other federal, state and local laws, rules and regulations, and only in such quantities as shall be used in the ordinary course for the operation and maintenance of the Premises.

(d) Mortgagor covenants that it shall keep or cause the Premises to be kept free of Hazardous Material (other than Operating Supplies) and not cause or permit the Premises to be used to generate, manufacture, refine, transport, treat, store (other than Operating Supplies), handle, dispose, produce or process Hazardous Material.

(e) Mortgagor covenants to ensure compliance by all operators, tenants and occupants of the Premises with all applicable federal, state and local laws, ordinances, rules and regulations regarding Hazardous Material and will ensure that all such operators, tenants and occupants obtain and comply with any and all required approvals, registrations or permits regarding Hazardous Material.

(f) Within thirty (30) days after written notice from Mortgagee, an environmental audit or assessment of the Premises of the type and scope specified by Mortgagee to be prepared at Mortgagor’s sole cost and expense by an environmental engineer or consultant approved by Mortgagee, which requirement for an environmental audit or assessment may be invoked by Mortgagee from time to time if (i) Mortgagee believes that there may have been a release of Hazardous Materials at the Premises, that any representation in this Section is incorrect or that Mortgagor has failed to comply with any of its covenants or agreements set forth in this Section hereof or (ii) an Event of Default has occurred, but in no event more than once in any 2-year period, unless otherwise required by law. Mortgagor shall promptly pay to Mortgagee the entire cost of any environmental audit or assessment relating to the Premises upon demand, which payment shall be applied by Mortgagee as a reimbursement to itself if Mortgagee prepared or



caused any such environmental audit or assessment to be obtained, or if Mortgagee previously paid an environmental engineer or consultant for any reason.

(g) Mortgagor shall defend, indemnify, and hold harmless Mortgagee and its parent and affiliates and their respective trustees, members, principals, partners, officers, directors, shareholders, employees and agents (the “**Indemnified Parties**”) from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature known or unknown, contingent or otherwise, arising out of or in any way related to Hazardous Material at or affecting the Mortgaged Property or the soil, water, vegetation, buildings, personal property, persons, animals or otherwise and any personal injury (including wrongful death) or property damage arising out of or related to such Hazardous Material.

(h) Foreclosure shall not operate as a discharge of Mortgagor’s engagements as to Hazardous Material; and in the event Mortgagor tenders a deed in lieu of foreclosure, Mortgagor shall deliver the Premises to Mortgagee (or its designee) free of any and all Hazardous Material.

(i) If at any time it is determined that any Hazardous Material is located on or under the Mortgaged Property, Mortgagor shall diligently commence to take such action, at its sole expense, to comply with all governmental laws, regulations, orders, and requirements pertaining thereto. Failure of Mortgagor to comply with all environmental requirements of federal, state or local law, statute, ordinance or regulation, rule, court or administrative order or decree, or private agreement, shall constitute and be a default under Section 5.1(b) of this Mortgage and Mortgagee, in lieu of foreclosure, shall have the option to require specific performance of Mortgagor’s obligations hereunder.

(j) In the event Mortgagor does not timely perform any of the above obligations, Mortgagee may perform said obligations at the expense of Mortgagor and such expense shall be added to the Indebtedness.

Section 4.21 **Zoning Changes**. Mortgagor will not consent to, join in, permit or allow any change in the zoning laws or ordinances relating to or affecting the Premises, without the written consent of Mortgagee, and will promptly notify Mortgagee of any changes to the zoning laws.

Section 4.22 **Grant of Security Interest**. Mortgagor, as further security for the payment of the Indebtedness and in addition to all the rights and remedies otherwise available to Mortgagee under this Mortgage, the Note and the other Loan Documents, grants to Mortgagee a security interest, under the Uniform Commercial Code as in effect in the State of Florida, in and to the Mortgaged Property and all proceeds thereof. Mortgagor authorizes Mortgagee, at Mortgagor’s expense, to file one or more financing statements and amendments thereto pursuant to said Uniform Commercial Code to perfect said security interest without Mortgagor’s signature thereon. Upon the occurrence of an Event of Default, Mortgagee shall have, in addition to all the other rights and remedies allowed by applicable law, the rights and remedies of a secured party under the Uniform Commercial Code as in effect at that time. Mortgagor further agrees that the security interest created hereby also secures all expenses of Mortgagee (including reasonable expenses for legal services of every kind, and cost of any insurance, and payment of taxes or other charges)

incurred in or incidental to, the custody, care, sale or collection of, or realization upon, any of the property secured hereby or in any way relating to the enforcement or protection of the rights of Mortgagee hereunder.

**Section 4.23 Compliance of Premises.**

(a) Mortgagor warrants and covenants that the Premises are and will continue to be in compliance with all applicable local, municipal, county, state and federal laws and regulations and all building, housing and fire codes, rules and regulations. Mortgagor further warrants and covenants that in the event that Mortgagor shall obtain notice that the Premises are in violation of any of the aforesaid local, municipal, county, state and federal laws, regulations or building, housing or fire codes, rules or regulations, whether as a result of a search of the public records or otherwise, Mortgagor shall cure such violations within ninety (90) days of the date of obtaining notice of same, unless any such violation shall have a Material Adverse Effect, in which event Mortgagor shall, at Mortgagor's sole expense, immediately cure any such violation and provide Mortgagee promptly with proof that the same has been cured. Mortgagor shall have any such violation dismissed of record within one hundred eighty (180) days of obtaining notice of same. Mortgagee shall have the right, but not the obligation, to obtain the cure of any violation at Mortgagor's expense, and the cost of curing the same shall be payable by Mortgagor to Mortgagee upon demand, and any such amount shall be secured by this Mortgage.

(b) Without limiting the provisions of Section 4.23(a): (i) Mortgagor represents and warrants to Mortgagee that Mortgagor is or will be in possession of the Premises, and the Premises are or will be in full compliance with the Americans with Disabilities Act of 1990 (42 U.S.C.A. sec. 12101 et. seq.), as the same may be amended from time to time (the "ADA") and all other federal, state and local laws pertaining to the accessibility of the Premises by persons with disabilities (the ADA and such other laws are, collectively, the "Accessibility Laws"); (ii) Mortgagor covenants to ensure that the Premises will at all times comply with all applicable Accessibility Laws and, upon the request of Mortgagee, Mortgagor will conduct such surveys of the Premises as Mortgagee shall require to ascertain such compliance; (iii) Mortgagor will maintain accurate records of all expenditures made in connection with any alterations to the Premises and will deliver copies thereof to Mortgagee upon Mortgagee's request; and (iv) Mortgagor shall defend, indemnify and hold harmless the Indemnified Parties from and against any claims, demands, penalties, fines, liabilities, settlements, damages, cost or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to any violations of the Accessibility Laws (including, without limitation, any costs incurred by Mortgagee in complying with any Accessibility Laws). Neither payment of the Indebtedness nor foreclosure shall operate as a discharge of Mortgagor's obligations under this subsection (b). In the event Mortgagor tenders a deed in lieu of foreclosure, Mortgagor shall deliver the Premises to Mortgagee (or its designee) free of any violations of the Accessibility Laws. In the event Mortgagor does not timely perform any of the above obligations, Mortgagee may perform said obligations at the expense of Mortgagor and Mortgagor shall reimburse Mortgagee for all costs, including attorney's fees and out-of-pocket expenses, and all liabilities incurred by Mortgagee by reason of the foregoing, with interest thereon at the Default Rate from the date of such payment by Mortgagee to the date of repayment. Until paid, said costs and expenses shall be secured by this Mortgage.

Section 4.24 **Single Purpose Entity; Authorization.** Mortgagor represents and warrants, and covenants for so long as any obligations secured by this Mortgage remain outstanding, as follows:

(a) Mortgagor does not and will not own any asset or property other than the Mortgaged Property and the Permitted Property.

(b) Mortgagor does not and will not engage in any business other than the acquisition, ownership, management and operation of the Mortgaged Property and the Permitted Property, and Mortgagor will conduct and operate its business in all material respects as presently conducted and operated and will not change the use of the Mortgaged Property, nor may Mortgagor undertake any development of the Mortgaged Property without the prior written consent of Mortgagee. Mortgagee's consent shall be granted or withheld at Mortgagee's sole discretion.

(c) Except as agreed to by Mortgagee in writing, Mortgagor has not incurred and will not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (i) the Loan, and the loan involving the Permitted Property, and (ii) trade and operational debt incurred in the ordinary course of business with trade creditors and in amounts as are customary and reasonable under the circumstances. No indebtedness other than the Loan is or shall be secured by the Mortgaged Property.

(d) Mortgagor has not made and will not make any loans or advances to any third party (including any constituent party, any guarantor or indemnitor of the Loan or any affiliate of Mortgagor, or any constituent party of any such guarantor or indemnitor), except in de minimis amounts in the ordinary course of business and of the character of trade or operational expenses.

(e) Mortgagor will maintain books and records and bank accounts separate from those of its affiliates and any constituent party, and Mortgagor will file or cause to be filed separate, distinct tax returns or informational return relating only to Mortgagor.

(f) Mortgagor is and will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate or constituent party of Mortgagor or any affiliate or constituent party of any guarantor or indemnitor of the Loan), and will use and conduct its business in its own name.

(g) Neither Mortgagor nor any constituent party will cause or seek the dissolution or winding up, in whole or in part, of Mortgagor.

(h) Mortgagor will not commingle its funds and other assets with those of, or pledge its assets for the benefit of any affiliate of Mortgagor, any guarantor of the Loan or any other party.

(i) Mortgagor does not or will not hold itself out to be responsible for the debts or obligations of any other person and does not or will not pay another person's liabilities out of its own funds.

(j) Mortgagor will not consent to the filing or any petition to take advantage of any applicable insolvency, bankruptcy, liquidation or reorganization statute, and Mortgagor will not make an assignment for the benefit of its creditors.

Section 4.25 **ERISA Compliance.** Mortgagor and Guarantor have complied and while the Loan is outstanding will comply in all material respects with all laws, statutes, regulations, rules and orders applicable to them of all Governmental Authorities relating to the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations issued thereunder, as from time to time in effect.

## ARTICLE V

### **EVENTS OF DEFAULT AND REMEDIES**

Section 5.1 **Events of Default.** The following shall constitute defaults hereunder and, after the giving of notice and/or the passage of time as provided herein, shall constitute "**Events of Default**":

(a) if Mortgagor shall fail to pay when due any installment of interest or principal, or any other sums payable under this Mortgage, the Note, or any other Loan Document; or

(b) if default shall occur in the due observance or performance of any covenant, term, obligation, condition or agreement on the part of Mortgagor contained herein, in the Note, or in any other Loan Document; or

(c) if any representation or warranty made by Mortgagor herein, or in any other Loan Document, or if any certificate or statement delivered to Mortgagee by Mortgagor in connection with the Loan shall be incorrect or misleading to an extent deemed by Mortgagee, in its sole, but reasonable judgment, to be material; or

(d) if a default shall have occurred under any other Loan Document and said default remains uncured after the giving of any required notice and the passage of any applicable cure period; or

(e) (i) if any Guarantor shall fail to comply with any covenant made by it in any of the Guarantor's Documents or any other Loan Document executed by such Guarantor, or if at any time any representation or warranty made by a Guarantor in any of the Guarantor's Documents or any other Loan Document executed by such Guarantor or in any other document, statement or writing shall be incorrect or misleading when made, to an extent deemed material by Mortgagee, in its sole judgment; or (ii) if a default by any Guarantor shall occur and be continuing under any of the Guarantor's Documents or any other Loan Document executed by such Guarantor; or (iii) if any Guarantor shall revoke or attempt to revoke, contest, commence any action or raise any defense against its obligations under any of the Guarantor's Documents or any other Loan Document executed by such Guarantor; or

(f) if Mortgagor or any Guarantor (each a "**Significant Person**") shall (i) suspend or discontinue its business, or (ii) make an assignment for the benefit of creditors, or (iii) admit in writing its inability to pay its debts as they become due, or (iv) file a voluntary petition in bankruptcy, or (v) become insolvent, or (vi) file any petition or answer seeking for itself any reorganization, arrangement, composition, readjustment of debt, liquidation or dissolution or similar relief under any present or future statute, law or regulation of any jurisdiction, or (vii) petition or apply to any tribunal for any receiver, custodian or any trustee for any substantial part of its property, or (viii) be the subject of any such proceeding commenced against it which remains undismissed for a period of thirty (30) days or such longer time period approved by Mortgagee; or (ix) file any answer admitting or not contesting the material allegations of any such petition filed against it, or of any order, judgment or decree approving such petition in any such proceeding, or (x) seek, approve, consent to, or acquiesce in any such proceeding, or in the appointment of any trustee, receiver, custodian, liquidator or fiscal agent for it, or any substantial part of its property, or an order is entered appointing any such trustee, receiver, custodian, liquidator or fiscal agent and such order remains in effect for thirty (30) days, or (xi) take any formal action for the purpose of effecting any of the foregoing, or looking to its liquidation or winding up of any Significant Person; or

(g) if an order for relief is entered under the United States bankruptcy laws or any other decree or order is entered by a court having jurisdiction over the Mortgaged Property or over any Significant Person, (i) adjudicating any Significant Person bankrupt or insolvent or (ii) approving as properly filed a petition seeking reorganization, arrangement, adjustment or re-composition of or in respect of any Significant Person under the United States bankruptcy laws or any other applicable federal or state law, or (iii) appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of any Significant Person or of any substantial part of the property of any thereof, or (iv) ordering the winding up or liquidation of the affairs of any Significant Person and any such decree or order continues unstayed and in effect for a period of thirty (30) days; or (v) a petition is filed against any Significant Person pursuant to any similar law, federal or state, and the same is not discharged within thirty (30) days or such longer time period approved by Mortgagee; or

(h) if final judgment for the payment of money shall be rendered against any Significant Person, which in Mortgagee's opinion would have a Material Adverse Effect and such Significant Person shall not discharge the same or cause it to be discharged within thirty (30) days from the entry thereof, or such longer time period approved by Mortgagee, or if the Mortgaged Property shall be the subject of any judgment, levy, sequestration or other writ or mechanics lien, which is not vacated, discharged or bonded within thirty (30) days or such longer time period approved by Mortgagee; or

(i) if Mortgagor shall fail to maintain its legal existence in good standing in its state of formation; or

(j) if any easement over, across, under or otherwise affecting the Mortgaged Property or any portion thereof shall be granted or released without Mortgagee's prior written consent or if there shall be a default by Mortgagor under any easement, covenant or restriction

affecting the Premises or any portion thereof or if any easement in favor of the Premises or any portion thereof shall be terminated or modified; or

(k) if Guarantor dies or is declared incompetent and the provisions in the Guaranty governing an event of death or incompetency are not complied with within the time and in the manner provided therein; or

(l) if Mortgagor shall assign any Lease or the rents from any Lease for all or a part of the Premises, without the prior written consent of Mortgagee, or shall enter into, amend, extend, renew, abridge or otherwise modify any Lease, unless same would constitute a Permitted Lease, or shall cancel or consent to the cancellation or surrender of any Lease unless in connection with the enforcement of the Lease or its replacement with a Permitted Lease, or shall in any other manner impair the security of Mortgagee for the payment of the debt secured by this Mortgage; or

(m) if there exists any actual or threatened demolition or removal of any building, or any portion thereof, erected or to be erected upon the Premises, or if the buildings on the Premises are not maintained in reasonably good repair for thirty (30) days after notice thereof has been given to Mortgagor or if, without Mortgagee's written consent, demolition or renovation of, any structural alteration in, or addition to, any building or structure on the Premises shall be made or any change shall occur in the nature of use or occupancy of the Premises; or

(n) if a default shall occur under Section 4.18 hereof; or

(o) if the Mortgaged Property or any material part thereof shall be condemned;  
or

(p) if any Material Adverse Change shall occur; or

(q) if a default shall have occurred and be continuing in respect of any other loan or indebtedness owed by a Significant Person to Mortgagee.

If Mortgagor shall fail to perform any of the terms, covenants, provisions or conditions of this Mortgage and if the default is of such nature that it cannot be cured by the payment of a sum of money only then Mortgagor shall have a period of fifteen (15) days where no time period is provided for performance (or such other number of days for performance as may be elsewhere provided in this Mortgage) to cure such default. However, if such non-monetary default cannot reasonably be cured within such fifteen (15) day period (or such other number of days for performance as may be elsewhere provided in this Mortgage) and Mortgagor shall have commenced to cure such default within such fifteen (15) day period (or such other number of days for performance as may be elsewhere provided in this Mortgage) and thereafter diligently and expeditiously proceeds to cure the same, such fifteen (15) day period (or such other number of days for performance as may be elsewhere provided in this Mortgage) shall be extended (provided such default shall not have a Material Adverse Effect) for so long as it shall require Mortgagor, in the expeditious exercise of due diligence, to cure such default, it being understood that no extension shall be for a period beyond sixty (60) days; provided, however, that the extension of

the grace period provided in this sentence shall not be applicable to the delivery of any financial statements or information required pursuant to this Mortgage.

**Section 5.2 Mortgagee's Remedies.**

(a) Upon the occurrence of any Event of Default, Mortgagee, without notice or presentment, except as provided herein, each of which is hereby waived by Mortgagor, may declare the entire Principal Amount, all accrued and unpaid interest thereon and all other amounts owing under the Loan Documents to be due and payable immediately, and upon any such declaration the Principal Amount, said accrued and unpaid interest and said other amounts shall become and be immediately due and payable, anything in the Note, this Mortgage or the other Loan Documents to the contrary notwithstanding;

(b) Upon the occurrence of any Event of Default, Mortgagee may (i) enter into and upon all or any part of the Premises, and, having and holding the same, may use, operate, manage and control the Mortgaged Property or any part thereof and conduct the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or receivers, (ii) 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 in its sole judgment, (iii) carry on the business thereof and exercise all rights and powers of Mortgagor with respect thereto either in the name of Mortgagor or otherwise as Mortgagee shall deem best, (iv) exercise any of the remedies of Mortgagee under the Note, and (v) with or without entering into or upon the Premises, collect and receive all gross receipts, earnings, revenues, rents, maintenance payments, issues, profits and income of the Mortgaged Property and every part thereof, all of which shall for all purposes constitute property of Mortgagee. Any and all sums expended by Mortgagee in connection with any of the foregoing shall be deemed to have been paid to Mortgagor and secured by this Mortgage (as shall any other sums advanced by Mortgagee for whatsoever purpose relative to the Loan or the Improvements). For the foregoing purposes, Mortgagor hereby constitutes and appoints Mortgagee its true and lawful attorney-in-fact with full power of substitution to take any of the foregoing actions on Mortgagor's behalf. Mortgagor understands and agrees that this power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked.

(c) Upon the occurrence of any Event of Default, Mortgagor covenants and agrees as follows:

(i) Mortgagee may, with or without entry, personally or by its agents or attorneys, insofar as applicable, sell the Mortgaged Property or any part thereof pursuant to the procedures provided by law, and all estate, right, title, interest, claim and demand therein, and right of redemption thereof, at one or more sales in its entirety or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by law; or

(ii) Mortgagee may institute an action of mortgage foreclosure or institute other proceedings according to law for the foreclosure of this Mortgage, and may prosecute the same to judgment, execution and sale for the collection of the Liabilities



secured hereby, and all interest with respect thereto, together with all taxes and insurance premiums advanced by Mortgagee and other sums payable by Mortgagor hereunder, and all fees, costs and expenses of such proceedings, including attorneys' fees and expenses; or

(iii) Mortgagee may, if default be made in the payment of any part of the Liabilities, proceed with foreclosure of the liens evidenced hereby in satisfaction of such item either through the courts or by conducting the sale as herein provided, and proceed with foreclosure of the security interest created hereby, all without declaring the whole of the Liabilities due, and provided that if sale of the Mortgaged Property, or any portion thereof, is made because of default in payment of a part of the Liabilities, such sale may be made subject to the unmatured part of the Liabilities, but as to such unmatured part of the Liabilities (and Mortgagor agrees that such sale, if so made, shall not in any manner affect the unmatured part of the Liabilities) this Mortgage shall remain in full force and effect just as though no sale had been made under the provisions of this Section. Mortgagor further agrees that several sales may be made hereunder without exhausting the right of sale for any unmatured part of the Liabilities, it being the purpose to provide for a foreclosure and sale of the Mortgaged Property, or any part thereof, for any matured portion of the Liabilities without exhausting the power to foreclose and to sell the Mortgaged Property, or any part thereof, for any other part of the Liabilities whether matured at the time or subsequently maturing; or

(iv) Mortgagee may take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Loan Documents or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Mortgagee shall elect; or

(v) Mortgagee may exercise in respect of the Mortgaged Property consisting of personal property or fixtures, or both, all of the rights and remedies available to a secured party upon default under the applicable provisions of the Uniform Commercial Code in effect in the State of Florida; or

(vi) Mortgagee may apply any proceeds or amounts held in escrow pursuant to the terms of this Mortgage to payment of any part of the Liabilities in such order of priority as Mortgagee may determine; or

(vii) Any sale as aforesaid may be subject to such existing tenancies as Mortgagee, in its sole discretion, may elect.

**Section 5.3    Sale, Foreclosure etc.**

(a) Mortgagee may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law,

Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(b) Upon the completion of any sale or sales made by Mortgagee under or by virtue of this Article V, Mortgagee, or any officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the properties, interests and rights sold. Mortgagee is hereby irrevocably appointed the true and lawful attorney of Mortgagor, in its name and stead, to make all the necessary conveyances, assignments, transfers and deliveries of any part of the Mortgaged Property and rights so sold, and for that purpose Mortgagee may execute all necessary instruments of conveyance, assignment and transfer and may substitute one or more persons with like power, Mortgagor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Mortgagor, if so requested by Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to Mortgagee or to such purchaser or purchasers all such instruments as may be advisable, in the reasonable judgment of Mortgagee, for the purpose and as may be designated in such request. Any such sale or sales made under or by virtue of this Article V, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever at law or in equity, of Mortgagor in and to the properties, interests and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against all Persons claiming or who may claim the same, or any part thereof, from, through or under Mortgagor.

(c) Upon any sale, whether under the power of sale hereby given or by virtue of judicial proceedings, it shall not be necessary for Mortgagee, or any public officer acting under execution or order of court, to have present or constructive possession of any of the Mortgaged Property.

(d) The recitals contained in any conveyance made by Mortgagee to any purchaser at any sale made pursuant hereto or under applicable law shall be full evidence of the matters therein stated, and all prerequisites to such sale shall be presumed to have been satisfied and performed.

(e) To the extent permitted by law, any such sale or sales made under or by virtue of this Mortgage, whether under the power of sale hereby granted and conferred, or under or by virtue of any judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, either by law or in equity, of Mortgagor in and to the properties, interests and rights so sold, and shall be a perpetual bar, both at law and in equity, against Mortgagor, its successors and assigns, and against any and all Persons claiming or who may claim the same, or any part thereof, from, through or under Mortgagor and its successors or assigns.

(f) The receipt of Mortgagee for the purchase money paid at any such sale, or the receipt of any other Person authorized to receive the same, shall be sufficient discharge therefor to any purchaser of the property, or any part thereof, sold as aforesaid, and no such purchaser, or

purchaser's representatives, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound (i) to see to the application of such purchase money or any part thereof upon or for any trust or purpose of this Mortgage, (ii) by the misapplication or nonapplication of any such purchase money, or any part thereof, or (iii) to inquire as to the authorization, necessity, expediency or regularity of any such sale.

(g) In case the liens or security interests hereunder, or by the exercise of any other right or power, shall be foreclosed by Mortgagee's sale or by other judicial or non-judicial action, the purchaser at any such sale shall receive, as an incident to its ownership, immediate possession of the property purchased, and if Mortgagor or Mortgagor's successors shall hold possession of said property, or any part thereof, subsequent to foreclosure, Mortgagor or Mortgagor's successors shall be considered as tenants at sufferance of the purchaser at foreclosure sale, and anyone occupying the property after demand made for possession thereof shall be guilty of forcible detainer and shall be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages by reason thereof are hereby expressly waived.

(h) In the event a foreclosure hereunder shall be commenced by Mortgagee, Mortgagee may at any time before the sale abandon the suit, and may then institute suit for the collection of the Note and for the foreclosure of the liens and security interest hereof. If Mortgagee should institute a suit for the collection of the Note and for a foreclosure of the liens and security interest of this Mortgage, it may at any time before the entry of a final judgment in said suit dismiss the same and proceed to sell the Mortgaged Property, or any part thereof, in accordance with provisions of this Mortgage.

(i) Any reasonable expenses incurred by Mortgagee in prosecuting, resetting or settling the claim of Mortgagee shall become an additional Liability of Mortgagor hereunder.

(j) In the event of any sale made under or by virtue of this Article V (whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale), the Principal Amount, and interest on the Note, and all other sums required to be paid by Mortgagor pursuant to this Mortgage, immediately thereupon shall, anything in the Note or in this Mortgage to the contrary notwithstanding, become due and payable.

(k) The purchase money proceeds or avails of any sale made under or by virtue of this Article V, together with any other sums which then may be held by Mortgagee under this Mortgage, whether under the provisions of this Article V or otherwise, shall be applied in accordance with the laws of the State of Florida, and to the extent not inconsistent, first to the payment of the costs and expenses of such sale, including reasonable compensation to Mortgagee and its agents and counsel, and of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by Mortgagee under this Mortgage, together with interest at the Default Rate on all advances made by Mortgagee and all taxes or assessments, except taxes, assessments or other charges, if any, subject to which the Mortgaged Property shall have been sold; second to the payment of all amounts due and owing under the Note and/or hereunder for principal and interest, with interest at the Default Rate from and after the happening of any Event of Default, third to the payment of any other sums required to be paid by Mortgagor

pursuant to any provision of this Mortgage, the Note or other Loan Document, all with interest at the Default Rate from the date such sums were or are required to be paid under this Mortgage, and fourth to the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

(l) Upon any sale made under or by virtue of this Article V (whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale), Mortgagee may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness of Mortgagor secured by this Mortgage the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage.

#### Section 5.4 Payments, Judgment etc.

(a) In case an Event of Default described in this Article V shall have occurred, then, upon written demand of Mortgagee, Mortgagor will pay to Mortgagee the whole amount which then shall have become due and payable on the Note, for principal and interest or both, as the case may be, which interest shall then accrue at the Default Rate on the then Principal Amount of the Note, and the sums required to be paid by Mortgagor pursuant to any provision of this Mortgage, and in addition thereto such further amount as shall be sufficient to cover the costs and expenses of collection, including compensation to Mortgagee, its agents and counsel and any expenses incurred by Mortgagee hereunder. In the event Mortgagor shall fail to pay such amounts upon demand, Mortgagee shall be entitled and empowered to institute such action or proceedings at law or in equity as may be advised by its counsel for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against Mortgagor and collect, out of the property of Mortgagor wherever situated, as well as out of the Mortgaged Property, in any manner provided by law, monies adjudged or decreed to be payable with interest thereon at the Default Rate.

(b) Mortgagee shall be entitled to recover judgment as aforesaid either before or after or during the pendency of any proceedings for the enforcement of the provisions of this Mortgage and the right of Mortgagee to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this Mortgage or the foreclosure of the lien hereof; and in the event of a sale of the Mortgaged Property or any part thereof and of the application of the proceeds of sale, as provided herein, to the payment of the Indebtedness, Mortgagee shall be entitled to enforce payment of, and to receive all amounts then remaining due and unpaid upon, the Note, and to enforce payment of all other charges, payments and costs due under this Mortgage and shall be entitled to recover judgment for any portion of the debt remaining unpaid, with interest thereon at the Default Rate. In case of proceedings against Mortgagor in insolvency or bankruptcy or any proceedings for its reorganization or involving the liquidation of its assets, then 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 Mortgaged Property.

(c) No recovery of any judgment by Mortgagee and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of Mortgagor shall affect, in any manner or to any extent, the lien of this Mortgage upon the Mortgaged Property or any part thereof, or any liens, rights, powers or remedies of Mortgagee hereunder, and such liens, rights, powers and remedies of Mortgagee shall continue unimpaired.

(d) Any moneys collected by Mortgagee under this Section 5.4 shall be applied by Mortgagee in accordance with the provisions of Section 5.3(k).

Section 5.5 **Receiver.** After the happening of any Event of Default and immediately upon the commencement of any action, suit or other legal proceedings by Mortgagee to obtain judgment for the Principal Amount, and interest on, the Note and other sums required to be paid by Mortgagor pursuant to any provision of this Mortgage or of any nature in aid of the enforcement of the Note or of this Mortgage, Mortgagor will, if required by Mortgagee, consent to the appointment of a receiver or receivers of the Mortgaged Property or any part thereof and of all the earnings, revenues, rents, maintenance payments, issues, profits and income thereof in accordance with Section 5.11 hereof. After the happening of any Event of Default, or upon the commencement of any proceedings to foreclose this Mortgage or to enforce the specific performance hereof or in aid thereof or upon the commencement of any other judicial proceeding to enforce any right of Mortgagee, Mortgagee shall be entitled, as a matter of right, if it shall so elect, without the giving of notice to any other party and without regard to the adequacy or inadequacy of any security for the Liabilities, forthwith either before or after declaring the unpaid principal of the Note to be due and payable, to the appointment of such a receiver or receivers.

Section 5.6 **Mortgagee's Possession.** Notwithstanding the appointment of any receiver, liquidator or trustee of Mortgagor or of any of its property, or of the Mortgaged Property or any part thereof, Mortgagee shall be entitled to retain possession and control of all property now or hereafter held under this Mortgage.

Section 5.7 **Remedies Cumulative.** No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy or remedies which Mortgagee may be entitled to exercise against Mortgagor and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or in any other Loan Document or now or hereafter existing at law or in equity or by statute. In addition to the remedies herein expressly provided, Mortgagee shall be entitled to avail itself of all such other remedies as may now or hereafter exist at law or in equity for the collection of the indebtedness secured hereby and the enforcement of the covenants herein and the foreclosure of the liens and security interest granted hereby. No delay or omission of Mortgagee to exercise any right or power shall be construed to be a waiver of any Event of Default or any acquiescence therein, and every power and remedy given in this Mortgage or in any other Loan Document to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. The resort to any remedy provided hereunder or in any other Loan Document or provided by law or at equity shall not prevent the concurrent or subsequent employment of any other appropriate remedy or remedies against Mortgagor. By the acceptance of payment of principal of or interest on any of the Liabilities after its due date, Mortgagee does not waive the right either to require prompt payment when due of all other amounts secured hereby or to regard as an Event of Default the failure to pay any other such

amounts. Nothing in this Mortgage or in the Note shall affect the obligations of Mortgagor to pay (i) the principal of, and interest on, the Note in the manner and at the time and place therein expressed or (ii) the other Liabilities in the manner and at the time herein expressed.

Section 5.8 **Agreement by Mortgagor.** Mortgagor will not at any time insist upon, or plead, or in any manner whatsoever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of the Mortgaged 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 or any other Loan Document, or 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 Mortgaged 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, or, after any such sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof; and 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 Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. Mortgagor, on behalf of itself and all who may claim under Mortgagor, waives, to the extent that it lawfully may, all right to have the Mortgaged Property or any part thereof marshaled upon any foreclosure hereof.

Section 5.9 **Use and Occupancy Payments.** During the continuance of any Event of Default and pending the exercise by Mortgagee of its right to exclude Mortgagor from all or any part of the Premises, unless Mortgagor is legally entitled to continue possession of the Premises, Mortgagor agrees to pay the fair and reasonable rental value for the use and occupancy of the Premises or any portion thereof which are in its possession for such period and, upon default of any such payment, will vacate and surrender possession of the Premises to Mortgagee or to a receiver, if any, and in default thereof may be evicted by any summary action or proceeding for the recovery of possession of the Premises for non-payment of rent, however designated. It is agreed that the fair and reasonable rental value for use and occupancy of the Premises may be difficult or impossible to ascertain; therefore, Mortgagor and Mortgagee hereby agree that the fair and reasonable rental value shall in no event be less than an amount equal to the debt service on the Loan. Any payments received by Mortgagee shall be applied in accordance with Section 5.3(k) above.

Section 5.10 **Mortgagee's Right to Purchase.** In case of any sale under the foregoing provisions of this Article V, whether made under the power of sale hereby given or pursuant to judicial proceedings, Mortgagee may bid for and purchase any property, and may make payment therefor as hereinafter set forth, and, upon compliance with the terms of said sale, may hold, retain and dispose of such property without further accountability therefor. For the purpose of making settlement or payment for the property or properties purchased, Mortgagee shall be entitled to use and apply such of the Liabilities held by it and any accrued and unpaid interest thereon.

Section 5.11 **Appointment of Receiver.** Upon application of Mortgagee to any court of competent jurisdiction, if any Event of Default shall have occurred, to the extent permitted by law, a receiver may be appointed to take possession of and to operate, maintain, develop and manage

the Mortgaged Property or any part thereof. In every case when a receiver of the whole or any part of the Mortgaged Property shall be appointed under this Section 5.11 or otherwise, the net income and profits of the Mortgaged Property shall, subject to the order of any court of competent jurisdiction, be paid over to, and shall be received by, Mortgagee to be applied as provided in Section 5.3(k) hereof.

Section 5.12 **No Waiver.** Mortgagee may resort to any security given by this Mortgage or to any other security now existing or hereafter given to secure the payment of any of the Liabilities secured hereby, in whole or in part, and in such portions and in such order as may seem best to Mortgagee in its reasonable discretion, and any such action shall not in any way be considered as a waiver of any of the rights, benefits, liens or security interest created by this Mortgage.

## ARTICLE VI

### SUPPLEMENT TO ASSIGNMENT OF LEASES AND RENTS

Section 6.1 **Lease Related Definitions.** As used in this Mortgage: (a) "**Lease**" means any lease, sublease, license or other agreement, whether written or oral, now or hereafter existing, under the terms of which any person other than Mortgagor has or acquires any right to occupancy or use of the Mortgaged Property, or any part thereof, or interest therein; (b) "**Lessee**" means the lessee, sublessee, licensee, tenant or other person having the right to occupy or use all or any part of the Mortgaged Property under a Lease; and (c) "**Rent**" means the rents, additional rents and other consideration payable to Mortgagor by the Lessee under the terms of a Lease. Whenever reference is made in this Mortgage or hereunder to a lease, license, lessee, licensee, tenancy or tenant, such reference shall be deemed to include a sublease, sublessee, license, licensee, subtenancy or subtenant, as the case may be.

Section 6.2 **Assignment of Leases and Rents.** Mortgagor, as security for the payment of the Loan and interest provided in the Note and all other Indebtedness, hereby assigns to Lender all the right, title and interest of Mortgagor in and to any and all Leases together with (a) the sole right, power or authority to alter or modify the Leases, (b) the sole right to exercise or to refrain from exercising any option or election at any time available to Mortgagor under the Leases, and (c) the right to collect the Rent, either with or without entry upon the Premises, it being intended that this Assignment constitutes a present, absolute and unconditional assignment, and not an assignment for additional security only, but reserving, however, a conditional license for the benefit of Mortgagor to collect the Rent, subject to the terms of Section 6.3 below.

Section 6.3 **Remedies Upon Default.** Mortgagor agrees that: (a) upon receipt from Mortgagee of notice that an Event of Default exists, each Lessee is hereby authorized and directed to pay directly to Mortgagee all Rent thereafter accruing, and the receipt of such Rent by Mortgagee shall be a release of such Lessee to the extent of all amounts so paid, (b) Rent so received by Mortgagee shall be applied by Mortgagee first to the expenses, if any, of collection and then in accordance with Article V hereof, (c) without impairing its rights hereunder, Mortgagee may, at its option, at any time and from time to time, release to Mortgagor Rent so received by Mortgagee, or any part thereof, and (d) Mortgagee shall not be liable for its failure to collect, or



its failure to exercise diligence in the collection of, Rent, but shall be accountable only for Rent that it shall actually receive. As among Mortgagee, Mortgagor and any Person claiming through or under Mortgagor, the assignment contained in the Assignment of Leases and Rents as supplemented by this Section 6.3 is intended to be absolute, unconditional and presently effective, and the provisions of subsection 6.3(a) are intended for the benefit of each Lessee and shall never inure to the benefit of Mortgagee or any person claiming through or under Mortgagor. It shall never be necessary for Mortgagee to institute legal proceedings of any kind whatsoever to enforce the provisions of this Section 6.3. Notwithstanding anything herein to the contrary, Mortgagor may collect such Rent until such time as an Event of Default shall occur hereunder.

**Section 6.4 Mortgagee's Consent Required.** Nothing in this Article VI shall ever be construed as (a) allowing any Lease other than a Permitted Lease, it being understood that the existence of any Lease other than a Permitted Lease without Mortgagee's prior written consent is an Event of Default hereunder, or (b) subordinating this Mortgage to any Lease.

**Section 6.5 Lease Related Covenants.** Mortgagor covenants to: (a) upon demand by Mortgagee, assign to Mortgagee, by separate instrument in form and substance satisfactory to Mortgagee, any and all Leases, and/or all Rents payable thereunder, including, but not limited to, any Lease which is now in existence or which may be executed after the date hereof; (b) not accept from any Lessee, nor permit any Lessee to pay, Rent for more than one month in advance except for payment in the nature of security for performance of Lessee's obligations; (c) comply with the terms and provisions of each Lease including, without limitation, the payment of all sums required to be paid by Mortgagor or which any Lessor has an option to pay under any Lease in order to prevent any reduction in or offset against any Rent payable under any lease or any default thereunder; (d) not amend, extend, abridge, otherwise modify, or renew any Lease unless after such action such Lease would constitute a Permitted Lease; (e) not cancel or accept the surrender of any Lease without the consent of the Mortgagee except in connection with the enforcement of the Mortgagor's rights after a default by the Lessee under the Lease or the replacement thereof with another Permitted Lease; (f) not assign, transfer, pledge, subordinate or mortgage any Lease without the written consent of Mortgagee; (g) not assign, transfer, pledge, subordinate or mortgage any Rent; (h) not waive, excuse, release or condone any nonperformance of any covenant of any Lease by any Lessee; (i) enforce its rights with regard to all Leases; and (j) not enter into any Lease affecting the Mortgaged Property or any part thereof without the prior written approval of Mortgagee unless same is a Permitted Lease.

**Section 6.6 Mortgagee Not Liable.** Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligations, duty or liability under any Lease, or under or by reason of this assignment, and Mortgagor shall and does hereby agree to indemnify and to hold the Indemnified Parties harmless from and against any and all liability, loss or damage which any Indemnified Party may or might incur under any Lease or under or by reason of this assignment and from and against any and all claims and demands whatsoever which may be asserted against any Indemnified Party by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any Lease. Should any Indemnified Party incur any such liability, loss or damage under any Lease or under or by reason of this assignment, or in the defense of any such claims or demands, the amount thereof, including all costs, expenses and attorneys' fees, shall be secured

hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand, and upon the failure of Mortgagor to do so Mortgagee may declare all sums secured by this Mortgage immediately due and payable.

Section 6.7 **Lessees' Certificates.** All Leases shall provide for the giving by the Lessee of certificates with respect to the status of such Leases, and Mortgagor shall exercise its right to request such certificates within ten (10) days of any demand therefor by Mortgagee. Mortgagor shall furnish to Mortgagee, within ten (10) days after a request by Mortgagee to do so, an executed counterpart of all Leases.

Section 6.8 **Lease Requirements.** All Lessees shall execute such estoppel certificates, subordinations, attornments and other agreements as Mortgagee may require. Under no circumstances shall Mortgagee be liable for any obligation to pay any leasing commission, brokerage fee or similar fee or charge in connection with any Lease nor shall Mortgagee be obligated to complete any Improvements for the benefit of any Lessee.

## ARTICLE VII

### MISCELLANEOUS

Section 7.1 **Benefit of Mortgage.** All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and shall apply to, bind and inure to the benefit of the successors and assigns of Mortgagor and the successors and assigns of Mortgagee. All of the covenants and warranties made by Mortgagor in this Mortgage shall be joint and several. The term "**Mortgagee**" as used herein, shall be deemed to mean the holder from time to time of the Note at the time outstanding.

Section 7.2 **Severability.** In the event any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Mortgagee, not affect any other provision of this Mortgage but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

Section 7.3 **Notices.** All notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when sent by certified or registered mail, postage paid, return receipt requested, or by overnight nationwide commercial courier service, to any party hereto at the following address of such party:

- (a) If to Mortgagee, at Lender's Notice Address;
- (b) If to Mortgagor, at Borrower's Notice Address;
- (c) If to any Guarantor, at such Guarantor's Notice Address;

or at such other address as any of the parties may from time to time designate by written notice given as herein required. Mailed notices shall not be deemed given or served until three (3) business days after the date of mailing thereof and notices delivered by overnight nationwide

commercial courier service shall be deemed given or served one (1) business day after the date of delivery thereof to said courier. Rejection or refusal to accept, or inability to deliver because of changed addresses or because no notice of changed address was given, shall be deemed a receipt of such notice.

Section 7.4 **Default Rate.** The Default Rate shall commence to accrue upon the occurrence of any Event of Default and shall continue to accrue and be paid on any amount to which the Default Rate is applied until said amount is paid in full.

Section 7.5 **Late Payments.** Late charges on late payments shall be payable by Mortgagor as provided in the Note.

Section 7.6 **Governing Law.** This Mortgage and the rights and indebtedness hereby secured shall, without regard to place of contract or payment, be construed and enforced according to the laws of the State of Florida, without giving effect to its principles of conflicts of laws.

Section 7.7 **Substitute Mortgages.** Mortgagor and Mortgagee shall, upon their mutual agreement to do so, execute such documents as may be necessary in order to effectuate the modification of this Mortgage, including the execution of substitute mortgages, so as to create two or more liens on the Mortgaged Property in such amounts as may be mutually agreed upon but in no event to exceed, in the aggregate, the Mortgage Amount; in such event, Mortgagor covenants and agrees to pay the reasonable fees and expenses of Mortgagee and its counsel in connection with any such modification.

Section 7.8 **No Merger of Mortgage.** Unless expressly provided otherwise, in the event that ownership of this Mortgage and title to the fee and/or leasehold estates in the Premises encumbered by this Mortgage shall become vested in the same person or entity, this Mortgage shall not merge in said title but shall continue to be and remain a valid and subsisting lien on said estates in the Premises for the amount secured hereby.

Section 7.9 **No Change etc.** Neither this Mortgage nor any provision hereof may be changed, waived, discharged or terminated, except by an instrument in writing, signed by Mortgagee and Mortgagor. Mortgagor consents and agrees that the Mortgagee, or any holder of the Note and this Mortgage, may agree to renew, extend, compromise, discharge or release the Loan in whole or in part, and/or to release, increase, change, substitute or exchange all or any part of any collateral, and/or to modify the terms of the Loan in any other way that Mortgagee and such holder, owner and Mortgagor may deem appropriate. Mortgagor agrees that no such renewal, extension, compromise, discharge, release, increase, change, substitution, exchange or modification, no sale of the Premises, no forbearance on the part of Mortgagee, nor any other indulgence given by Mortgagee or any other holder of the Note shall relieve or affect in any manner the original liability of Mortgagor or any guarantor of the Loan, nor adversely affect the priority of this Mortgage, nor limit or prejudice or impair any right or remedy of Mortgagee. Mortgagor and all guarantors of the Loan and all those claiming by, through or under any of them, jointly and severally, waive any and all right to prior notice of, and any and all defenses or claims based upon any such renewal, extension, compromise, discharge, release, increase, change, substitution, exchange, modification, sale, forbearance or indulgence.

Section 7.10 **Security Agreement**. This Mortgage shall be deemed to be a security agreement pursuant to the Uniform Commercial Code of the State of Florida.

Section 7.11 **No Usury**. In the event that Mortgagee, in enforcing its rights hereunder, determines that charges and fees incurred in connection with the Loan may, under the applicable usury laws, cause the interest rate herein to exceed the maximum allowed by law, then such interest shall be recalculated and any excess over the maximum interest permitted by said laws shall be credited to the then principal outstanding balance to reduce said balance by that amount. It is the intent of the parties hereto that Mortgagor under no circumstances shall be required to pay, nor shall Mortgagee be entitled to collect, any interest which is in excess of the maximum legal rate permitted under the applicable usury laws.

Section 7.12 **No Credits**. Mortgagor will not claim or demand or be entitled to receive any credit or credits on the principal indebtedness to secure payment thereon, for so much of the taxes assessed against the Mortgaged Property as is equal to the tax rate applied to the principal indebtedness due on this Mortgage or any part thereof and no deduction shall be claimed from the taxable value of the Mortgaged Property by reason of this Mortgage.

Section 7.13 **Transfer of Indebtedness**. Mortgagor acknowledges that Mortgagee may (a) sell or transfer interests in the Loan and Loan Documents to one or more participants or entities, (b) pledge Mortgagee's interests in the Loans and the Loan Documents as security for one or more loans obtained by Mortgagee, or (c) sell the Loan evidenced by the Note and the Loan Documents to a party who may pool the Loan with a number of other loans and to have the holder of such loans grant participation therein or issue one or more classes of Mortgage-Backed, Pass-Through Certificates or other securities evidencing a beneficial interest in a rate or unrated public offering or private placement (the "**Securities**"). The Securities may be rated by one or more national rating agencies. Mortgagor acknowledges and agrees that Mortgagee may, at any time, sell, transfer or assign the Note, this Mortgage and the other Loan Documents, and any or all servicing rights with respect thereto, or grant participation therein or issue Securities evidencing a beneficial interest in a rated or unrated public offering or private placement. In this regard, Mortgagor agrees to make available to Mortgagee all information concerning its business and operations which Mortgagee reasonably requests. Mortgagee may share such information with the investment banking firms, rating agencies, accounting firms, law firms and other third-party advisory firms involved with the Loan or the Securities. Mortgagee may forward to each purchaser, transferee, assignee, servicer, participant or investor in such securities or credit rating agency rating such Securities (collectively, the "**Investor**") and each prospective Investor, all documents and information which Mortgagee now has or may hereafter acquire relating to Mortgagor and the Premises, whether furnished by Mortgagor or otherwise, as Mortgagee determines necessary or desirable consistent with full disclosure for purposes of marketing and underwriting the Loan. Mortgagor shall furnish and hereby consents to Mortgagee furnishing to such Investors or such prospective Investors any and all information concerning Mortgagor and the Premises as may be requested by Mortgagee, any Investor or any prospective Investor in connection with any sale, transfer or participation interest. Mortgagor understands and agrees that the information provided by Mortgagor to Mortgagee may ultimately be incorporated into the offering documents for the Securities and thus such information may be disclosed to Investors and prospective Investors and that Mortgagee and all of the aforesaid third-party advisors and professional firms shall be entitled

to rely on the information supplied by, or on behalf of, Mortgagor. Upon any transfer or proposed transfer contemplated above and by the Loan Documents, at Mortgagee's request, Mortgagor shall provide an estoppel certificate to the Investor or any prospective Investor in such form, substance and detail as Mortgagee may reasonably require.

Section 7.14 **Mortgagee's Dealings with Successors and Lessees.** In the event Mortgagor or any of Mortgagor's successors conveys or leases without the prior written approval of Mortgagee except as permitted herein any interest in the Mortgaged Property, or any part thereof, to any other party, Mortgagee may deal with any successor owner or lessee of any part of the Mortgaged Property with reference to this Mortgage and to the Liabilities, either by forbearance on the part of Mortgagee or release of all or any part of the Mortgaged Property or of any other property securing payment of any Liabilities, without in any way modifying or affecting Mortgagee's rights, remedies, liens or security interests hereunder (including the right to exercise any one or more of the remedies described or referred to in Article I through VII hereof in the event such conveyance is made in contravention of the provisions of the Mortgage) or the liability of Mortgagor or any other party liable for the payment of the Liabilities, in whole or in part. This shall not be construed to allow any such conveyance or leasing by Mortgagor, it being understood that conveyance or leasing of the Mortgaged Premises or any part thereof, except as permitted herein, is an Event of Default hereunder.

Section 7.15 **No Waiver by Mortgagee.** All options and rights of election herein provided for the benefit of Mortgagee are continuing, and the failure to exercise any such option or right of election upon a particular default or breach or upon any subsequent default or breach shall not be construed as waiving the right to exercise such option or election at any later date. By the acceptance of payment of principal or interest after its due date, Mortgagee does not waive the right either to require prompt payment when due of all other amounts secured hereby or to regard as an Event of Default the failure to pay any other such amounts. No exercise of the rights and powers herein granted and no delay or omission in the exercise of such rights and powers shall be held to exhaust the same or be construed as a waiver thereof, and every such right and power may be exercised at any time and from time to time. All grants, covenants, terms and conditions hereof shall bind Mortgagor and all successive owners of the Premises.

Section 7.16 **Submission to Jurisdiction.** Mortgagor irrevocably submits to the jurisdiction of any Florida State or Federal court sitting in the County of Miami-Dade over any suit, action or proceeding arising out of or relating to this Mortgage or any Loan Document. Mortgagor hereby agrees that Mortgagee shall have the option in its sole discretion to lay the venue of any such suit, action or proceeding in the courts of the State of Florida or any United States District Court situated in the State of Florida and irrevocably waives to the fullest extent permitted by law any objection which Mortgagor may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in such court and any claim that any suit, action or proceeding brought in such court has been brought in an inconvenient forum. Mortgagor agrees that a final judgment of any such suit, action or proceeding brought in such court shall be conclusive and binding upon Mortgagor.

Section 7.17 **Assignments and Participations.** Mortgagee shall have the right, at its sole discretion at any time, or from time to time, to assign this Mortgage or invite participants to

participate in portions of the indebtedness secured by this Mortgage and Mortgagor agrees to execute any documents requested by Mortgagee in connection with such assignment or participation.

Section 7.18 **Right of Set-Off.** In addition to any rights and remedies of Mortgagee provided by law, upon the occurrence of an Event of Default, Mortgagee shall have the right, without prior notice to Mortgagor, any such notice being expressly waived by Mortgagor to the extent not prohibited by applicable law, to set-off and apply against any indebtedness, whether matured or unmatured, of Mortgagor to Mortgagee, any amount owing from Mortgagee to Mortgagor, at, or at any time after, the happening of any of the above-mentioned events. To the extent not prohibited by applicable law, the aforesaid right of set-off may be exercised by Mortgagee against Mortgagor or against any trustee in bankruptcy, custodian, debtor in possession, assignee for the benefit of creditors, receivers, or execution, judgment or attachment creditor of Mortgagor, or against anyone else claiming through or against Mortgagor or such trustee in bankruptcy, custodian, debtor in possession, assignee for the benefit of creditors, receivers, or execution, judgment or attachment creditor, notwithstanding the fact that such right of set-off shall not have been exercised by Mortgagee prior to the making, filing or issuance, or service upon Mortgagee of, or of notice of, any such petition, assignment for the benefit of creditors, appointment or application for the appointment of a receiver, or issuance of execution, subpoena, order or warrant. Mortgagee agrees promptly to notify Mortgagor after any such set-off and application made by Mortgagee, provided that the failure to give such notice shall not affect the validity of such set-off and application.

Section 7.19 **Joint and Several Liability.** If more than one person and/or entity is the "Mortgagor" hereunder, then the obligations under this Mortgage, the Note, and the other Loan Documents of Mortgagor shall be the joint and several obligations of all such persons and/or entities.

Section 7.20 **Headings Descriptive.** The headings of the several sections and subsections of this Mortgage are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Mortgage.

Section 7.21 **Binding Agreement.** This Mortgage shall be binding upon, and inure to the benefit of, the successors, heirs, executors, administrators and assigns of the respective parties hereto.

Section 7.22 **Patriot Act; OFAC.** MORTGAGEE HEREBY NOTIFIES MORTGAGOR THAT, PURSUANT TO THE REQUIREMENTS OF THE USA PATRIOT ACT (TITLE III OF PUB. L. 107-56 (SIGNED INTO LAW OCTOBER 26, 2001) (THE "**PATRIOT ACT**"), MORTGAGEE IS REQUIRED TO OBTAIN, VERIFY AND RECORD INFORMATION THAT IDENTIFIES MORTGAGOR, WHICH INFORMATION INCLUDES THE NAME AND ADDRESS OF MORTGAGOR AND OTHER INFORMATION THAT WILL ALLOW MORTGAGEE TO IDENTIFY MORTGAGOR IN ACCORDANCE WITH THE PATRIOT ACT. MORTGAGOR AGREES TO PROVIDE TO MORTGAGEE PROMPTLY AFTER ANY REQUEST BY MORTGAGEE, SUCH INFORMATION AS MORTGAGEE SHALL REQUIRE FOR PURPOSES OF COMPLYING WITH THE REQUIREMENTS OF



THE PATRIOT ACT, THE FEDERAL REGULATIONS ISSUED PURSUANT TO THE PATRIOT ACT AND ANY CUSTOMER IDENTIFICATION PROGRAM ESTABLISHED BY MORTGAGEE PURSUANT TO THE PATRIOT ACT AND SUCH REGULATIONS. NEITHER MORTGAGOR NOR GUARANTOR NOR ANY SUBSIDIARY OR AFFILIATE OF MORTGAGOR OR GUARANTOR IS (A) NAMED ON THE LIST OF SPECIALLY DESIGNATED NATIONALS OR BLOCKED PERSONS MAINTAINED BY THE U.S. DEPARTMENT OF THE TREASURY'S OFFICE OF FOREIGN ASSETS CONTROL AVAILABLE AT [HTTP://WWW.TREAS.GOV/OFFICES/EOTFFFC/OFAC/SDN/INDEX.HTML](http://www.treas.gov/offices/eotfffc/ofac/sdn/index.html) OR (B) (i) AN AGENCY OF THE GOVERNMENT OF A COUNTRY, (ii) AN ORGANIZATION CONTROLLED BY A COUNTRY, OR (iii) A PERSON RESIDENT IN A COUNTRY THAT IS SUBJECT TO A SANCTIONS PROGRAM IDENTIFIED ON THE LIST MAINTAINED BY THE U.S. DEPARTMENT OF THE TREASURY'S OFFICE OF FOREIGN ASSETS CONTROL AND AVAILABLE AT [HTTP://WWW.TREAS.GOV/OFFICES/EOTFFFC/OFAC/SANCTIONS/INDEX.HTML](http://www.treas.gov/offices/eotfffc/ofac/sanctions/index.html), OR AS OTHERWISE PUBLISHED FROM TIME TO TIME, AS SUCH PROGRAM MAY BE APPLICABLE TO SUCH AGENCY, ORGANIZATION OR PERSON, AND THE PROCEEDS FROM THE LOAN WILL NOT BE USED TO FUND ANY OPERATIONS IN, FINANCE ANY INVESTMENTS OR ACTIVITIES IN, OR MAKE ANY PAYMENTS TO, ANY SUCH COUNTRY OR PERSON.

Section 7.23 **Waiver of Trial by Jury.** MORTGAGOR AND MORTGAGEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THE LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREIN. FURTHER, MORTGAGOR HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF MORTGAGEE, OR COUNSEL TO MORTGAGEE, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT MORTGAGEE WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. MORTGAGOR FURTHER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO BRING ANY ACTIONS THAT WOULD CONSTITUTE THE SUBJECT OF A PERMISSIVE COUNTERCLAIM UNDER APPLICABLE LAW OR RULES OF CIVIL PROCEDURE IN ANY ACTION, SUIT OR PROCEEDING INVOLVING THIS MORTGAGE OR ANY OF THE LOAN DOCUMENTS. MORTGAGOR ACKNOWLEDGES THAT MORTGAGEE HAS BEEN INDUCED TO ENTER INTO THIS MORTGAGE BY, INTER ALIA, THE PROVISIONS OF THIS SECTION.

Section 7.24 **Waiver of Consequential and Punitive Damages.** Mortgagor hereby knowingly, voluntarily and intentionally waives any right it may have to consequential or punitive damages arising out of, under or in connection with the Loan Documents or the transactions contemplated therein. Further, Mortgagor hereby certifies that no representative of Mortgagee, or counsel to Mortgagee, has represented, expressly or otherwise, that Mortgagee would not, in the event of such litigation, seek to enforce this waiver of consequential and punitive damages. Mortgagor acknowledges that Mortgagee has been induced to accept this Mortgage by, inter alia, the provisions of this Section.



Section 7.25 **Loan Related Expenses.** Within five (5) days of Mortgagee's request, Mortgagor shall pay to Mortgagee the amount of any out-of-pocket expenses incurred by Mortgagee (including, without limitation, attorney's fees), in connection with Mortgagee's enforcement of any of Mortgagee's rights or Mortgagor's obligations under this Mortgage or any other Loan Document, or otherwise in connection with Mortgagee's administration of the Loan.

Section 7.26 **Counterparts.** This Mortgage, if executed by more than one party, may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Mortgage or any amendment, modification, or supplement hereto by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Mortgage.

Section 7.27 **Effect of Partial Release.** No release of any part of the Mortgaged Property or of any other property conveyed to secure the Indebtedness secured hereby shall in any way alter, vary or diminish the force, effect or lien or security interest of this Mortgage on the Mortgaged Property or portion thereof remaining subject to the lien and security interest created hereby.

Section 7.28 **Satisfaction or Assignment.** Upon payment of the Liabilities in full, Mortgagee shall, at the option of Mortgagor, either deliver to Mortgagor a satisfaction of this Mortgage duly executed and in recordable form, or an assignment of this Mortgage without recourse, warranty or representation, duly executed and in recordable form, to such person or persons as Mortgagor shall direct at Mortgagor's sole expense.

Section 7.29 **No Third Party Beneficiaries.** This Mortgage shall not run to the benefit of any person or entity other than to Mortgagee and its successors and assigns.

Section 7.30 **Relationship of Parties.** The relationship of Mortgagee to Mortgagor is that of a creditor or lender to an obligor (inclusive of a person obligated on a supporting obligation) or debtor; and in furtherance thereof and in explanation thereof, Mortgagee has no fiduciary, trust, advisor, business consultant, guardian, representative, partnership, joint venture or other similar relationship to or with Mortgagor and no such relationship shall be drawn or implied from this Mortgage or any of Mortgagee's actions or inactions hereunder or with respect hereto or from any prior relationship between the parties. Mortgagee has no obligation to Mortgagor or any other person relative to administration of the Indebtedness or the Property, or any part or parts thereof.

Section 7.31 **Exemption from Truth in Lending and Fair Debt Collection Practices Acts.** Mortgagor understands and agrees that the extension of credit by Mortgagee to Mortgagor represented by the Loan is exempt from the provisions of the Federal Consumers Credit Protection Act and Regulation "Z" of the Board of Governors of the Federal Reserve System of the United States of America, and the Fair Debt Collection Practices Act because Mortgagor is fully excluded therefrom and/or because the Loan is only for business or commercial purposes of Mortgagor, and Mortgagor acknowledges that the proceeds of the Loan are not being used for personal, family, household or agricultural purposes.

Section 7.32 **Partial Release Price.** Provided the Loan is good standing and an Event of Default beyond any applicable notice or cure period has not occurred and is continuing, if the

Mortgagor enters into a Sales Contract (as defined below) to sell any parcel of the Mortgaged Property, or if Mortgagor desires to remove any of the parcel of the Mortgaged Property from the lien of this Mortgage, the Mortgagee will agree to release any such parcel (the "Release Parcel") from the lien of this Mortgage, subject to the following provisions:

(a) If the Release Parcel is subject to a sale, the Mortgagee shall receive a copy of a fully-executed Sales Contract for the sale and purchase of the Release Parcel. As defined herein, "Sales Contract" shall mean a legally enforceable contract, in form and content satisfactory to Mortgagee and its legal counsel, that is in full force and effect in accordance with its terms, between Mortgagor and an arm's length bona fide third-party purchaser for the sale and purchase of a Release Parcel. If the Release Parcel is not subject to a sale or will be refinanced with another lender, the Mortgagor shall inform Mortgagee as to which parcel will be released;

(b) The Mortgagor pays Mortgagee a release payment (hereinafter, the "Release Payment") that is equal to fifty-five percent (55%) of (i) the sale price of the Release Parcel specified in the Sales Contract, or (ii) the original appraised value of the Release Parcel at the time the Loan was approved, whichever is greater;

(c) The remaining parcel of the Mortgaged Property must demonstrate the ability to yield the required Debt Service Coverage Ratio specified in the Note which is equal to or greater than 1.40 to 1 times; and

(d) Mortgagor shall also concurrently pay to Mortgagee all out-of-pocket costs incurred by the Mortgagee (including, without limitation, any recording costs and attorneys' fees, if required) in connection with the preparation and granting of any partial release, and all accrued but unpaid interest on the Loan as of the date the Release Payment is tendered.

## ARTICLE VIII

### STATE SPECIFIC PROVISIONS

Section 8.1 **State-Specific Provisions Control**. In the event of any conflict between the terms and provisions set forth in this Article VIII and the other terms and provisions of this Mortgage, this Article VIII shall control.

Section 8.2 **Future Advances**. This Mortgage shall secure such future advances as may be made by Mortgagee, at its option and for any purpose, within twenty (20) years from the date of this Mortgage or within such lesser period of time as may be provided by law. All such future advances shall be included within the "Indebtedness", shall be secured to the same extent as if made on the date of the execution of this Mortgage and shall take priority from the time this Mortgage is filed for record as provided by law. The total amount of indebtedness secured by this Mortgage may decrease or increase from time to time, but the Principal Amount, plus interest and any disbursements made for the payment of taxes, levies or insurance on the Premises, with interest on those disbursements, plus any increase in the Principal Amount as the result of negative amortization or deferred interest, so secured at any one time shall not exceed \$8,124,000.00.

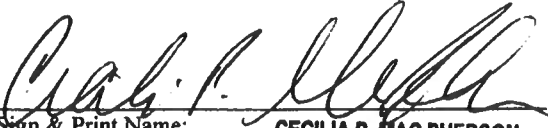
Without the prior written consent of Mortgagee, which Mortgagee may grant or withhold in its sole discretion, Mortgagor shall not file for record any notice limiting the maximum principal amount that may be secured by this Mortgage to a sum less than the maximum principal amount set forth in this paragraph and any such filing shall constitute an Event of Default under this Mortgage and under the Loan Agreement.

Section 8.3 **Radon Gas**. The following notice is given pursuant to Section 404.056 of the Florida Statutes: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who were exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

*(Remainder of page intentionally left blank; signature page follows.)*

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed on the date first set forth in the acknowledgement below and effective as of the date set first forth above.

**WITNESSES:**

  
Sign & Print Name: **CECILIA P. MAC PHERSON**

  
Sign & Print Name: **Lisa Marie Pedraja**

STATE OF FLORIDA                    )  
  ) SS:  
COUNTY OF MIAMI-DADE        )

**MORTGAGOR:**

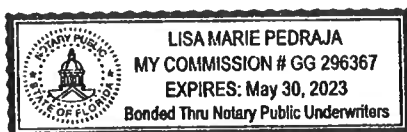
VALENCIA 520-524, LLC, a Florida limited liability company,


By: Beraja Investments II, Ltd., a Florida limited partnership, as Manager,

By: Beraja Investments 2, LLC, a Florida limited liability company, as General Partner,

By:   
Roberto Beraja, Managing Director

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me, by means of [ ☒ ] physical presence or [    ] online notarization, this 20 day of May, 2022, by Roberto Beraja, in his capacity as Managing Director of Beraja Investments 2, LLC, a Florida limited liability company, in its capacity as General Partner of Beraja Investments II, Ltd., a Florida limited partnership, in its capacity as Manager of VALENCIA 520-524, LLC, a Florida limited liability company. He [    ] is personally known to me or [ ☒ ] has produced a driver's license issued by the Florida Department of Highway Safety and Motor Vehicles or \_\_\_\_\_ [insert other identification if applicable] as identification.



  
Sign & Print Name: **Lisa Marie Pedraja**  
NOTARY PUBLIC, State of Florida at Large  
Serial No: **GG 296367**  
My Commission Expires: **May 30, 2023**

**EXHIBIT "A"**  
**Legal Description of the Premises**

**(Parcel 1):**

**Lots 4 and 5, in Block 26, of CORAL GABLES DOUGLAS SECTION, according to the Plat thereof, as recorded in Plat Book 8, at Page 87, of the Public Records of Miami-Dade County, Florida, together with the improvements thereon. Also described as: Lots 4 and 5, in Block 26, of REVISED PLAT OF CORAL GABLES DOUGLAS SECTION, according to the Plat thereof, as recorded in Plat Book 25, at Page 69, of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 220 Antilla Avenue, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4108-009-2380.**

**(Parcel 2):**

**Lot 5, Block 1, of COLLINGWOOD, according to the Plat thereof, as recorded in Plat Book 18, at Page 9 of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 10 SW 30 Court, Miami, FL 33135. Parcel ID/Folio No. 01-4104-013-0060.**

**(Parcel 3):**

**Lot 2, of HOUSTON HEIGHTS, an addition to The City of Miami, Florida, according to the Plat thereof, as recorded in Plat Book 3, at Page 215, of the Public Records of Miami-Dade County, Florida, LESS the following portion of said Lot, more particularly described as: Beginning at the Northeast corner of Lot 2 of HOUSTON HEIGHTS, thence run West along the North line of said Lot 2 at the NW corner of said Lot 2, thence run South along the West line of said Lot 2 for a distance of 4.3 ft to a point; thence run East along a line 35 feet South of and parallel with the center line of West Flagler Street for a distance of 50 feet to a point on the East line of said Lot 2; thence run North along the East line of said Lot 2 for a distance of 4.7 feet to the Point of Beginning.**

**a/k/a Property Address: 3010 W. Flagler Street, Miami, FL 33135. Parcel ID/Folio No. 01-4104-033-0020.**

**(Parcel 4):**

**Lot 4 in Block 1 of COLLINGWOOD, according to the Plat thereof, as recorded in Plat Book 18, at Page 9 of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 3050 W. Flagler Street, Miami, FL 33135. Parcel ID/Folio No. 01-4104-013-0050.**

**(Parcel 5):**

**Lots 13, 14, 15 and 16, Block 14, Coral Gables Biltmore Section, according to the Plat thereof, as recorded in Plat Book 20, Page 28, of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 520 Valencia Avenue, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4117-008-2290.**

**(Parcel 6):**

**Lots 11 and 12, Block 14, Coral Gables Biltmore Section, according to the Plat thereof, as recorded in Plat Book 20, Page 28, of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 524 Valencia Avenue, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4117-008-2270.**

**(Parcel 7):**

**Lot 23, Block 9 CORAL GABLES, SECTION B, according to the Plat thereof, as recorded in Plat Book 5, at Page 111, of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 545 Coral Way, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4108-001-1561.**

**(Parcel 8):**

**Lot 5 and the Northeast 1/2 of Lot 6, Block 16, Revised Plat of Coral Gables, Douglas Section, according to the Plat thereof, as recorded in Plat Book 25, at Page 69 of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 1000 E. Ponce de Leon Blvd., Coral Gables, FL 33134. Parcel ID/Folio No. 03-4108-009-1430.**

**(Parcel 9):**

**Lot 14, Block 17, Revised Plat of Coral Gables, Douglas Section, according to the Plat thereof, as recorded in Plat Book 25, at Page 69 of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 219 Phoenetia Avenue, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4108-009-1591.**

**(Parcel 10):**

**Lot 13, Block 12, Revised Plat of Coral Gables, Douglas Section, according to the Plat thereof, as recorded in Plat Book 25, at Page 69 of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 119 Santillane Avenue, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4108-009-1030.**

**(Parcel 11):**

**Lot 14, Block 12, Revised Plat of Coral Gables, Douglas Section, according to the Plat thereof, as recorded in Plat Book 25, at Page 69 of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 123 Santillane Avenue, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4108-009-1040.**

**(Parcel 12):**

**Lot 15, Block 12, Revised Plat of Coral Gables, Douglas Section, according to the Plat thereof, as recorded in Plat Book 25, at Page 69 of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 127 Santillane Avenue, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4108-009-1050.**

**(Parcel 13):**

**Lots 3 and 4, Block 16, Revised Plat of Coral Gables, Douglas Section, according to the Plat thereof, as recorded in Plat Book 25, at Page 69 of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 130 Santillane Avenue, Coral Gables, FL 33134. Parcel ID/Folio No. 03-4108-009-1410.**

**(Parcel 14):**

**Lots 22, 23, 24, 25, and 26, Block 38, Amended Plat of New Biscayne, according to the Plat thereof, as recorded in Plat Book B, Page 16, of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 3201 Aviation Avenue, Coral Gables, FL 33133. Parcel ID/Folio No. 01-4122-001-1290.**

**(Parcel 15):**

**Lots 5 and 6, HOUSTON HEIGHTS, according to the Plat thereof, as recorded in Plat Book 3, Page 215, of the Public Records of Miami-Dade County, Florida.**

**a/k/a Property Address: 70 SW 30 Avenue, Miami, FL 33135. Parcel ID/Folio No. 01-4104-033-0050.**