

PREPARED BY & AFTER RECORDING, RETURN TO:

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Mortgage Bk 2023 Pg 149277
(PAGE 149277 of 149298)
E-RECORDED 9/8/2023 2:05:08 PM
Frank Barger, PROBATE JUDGE
Madison County, Alabama
Term/Cashier: 036-MJ0G15J3-21/jshockley
Tran: 689407 Additional Page \$55.00
Filing \$1.00
Imaging \$10.00
Mental Health Fee \$12.00
Microfilm \$0.25
Mortgage Tax \$3,869.10
Total: \$3,947.35

MORTGAGE, SECURITY AGREEMENT AND ABSOLUTE ASSIGNMENT OF LEASES AND RENTS

STATE OF ALABAMA COUNTY OF MADISON

THIS INDENTURE (the "Mortgage"), made effective this 2nd day of August, 2023, between **Jordan LN, LLC**, a Georgia limited liability company ("Grantor"), whose address is c/o Embry Development Company, LLC 667 Main Street, Suite A, Suwanee, GA 30024, and **Issachar Capital LLC** ("Grantee"), whose address is 6840 Sugarloaf Parkway, S-200, Duluth Ga 30097.

WITNESSETH:

WHEREAS, Grantor is indebted to Grantee in the sum of Two Million Five Hundred Seventy Nine Thousand Three Hundred Forty Dollars and No/100 (\$2,579,340.00), in lawful money of the United States, and has agreed to pay the same, with interest thereon, according to the terms of that certain Balloon Promissory Note (the "Note") given by Grantor to Grantee, bearing even date herewith, with final payment being due on August 2, 2024, the Note, by reference, being made a part hereof;

WHEREAS, Grantor is required to execute and deliver this Mortgage as security for the Secured Indebtedness (as defined herein), which the Grantor is willing to do in consideration for Grantee extending the loan evidenced by the Note to Grantor;

NOW, THEREFORE, in consideration of the premises and as set forth hereinabove, Grantor has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto Grantee the following property, to-wit:

All that tract of land described on Exhibit A, attached hereto and made a part hereof.

TOGETHER with all, structures and other improvements now or hereafter located on the property hereinbefore described, or any part and parcel thereof; and

TOGETHER with all rights, title and interest of Grantor in and to the minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter on said property or above the same or any part or parcel thereof; and

TOGETHER with all and singular the tenements, hereditaments, easements and appurtenances thereunto belonging or in any wise appertaining, and the reversion or reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest; claim and demand whatsoever of Grantor of, in and to the same and of, in and to every part and parcel thereof; and

TOGETHER with all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to said property and including all trade, domestic and ornamental fixtures, and Sections of personal property of every kind and nature whatsoever (hereinafter collectively called "Equipment"), now or hereafter located in, upon or under said property or any part thereof and used or usable in connection with any present or future operation of said property and now owned or hereafter acquired by Grantor, including, but without limiting the generality of the foregoing, all heating, air-conditioning, freezing, lighting, laundry, incinerating and power equipment; engines; pipes; pumps; tanks; motors; conduits; switchboards; plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating and communications apparatus; boilers, ranges, furnaces, oil burners or units thereof; appliances; air-cooling and air-conditioning apparatus; vacuum cleaning systems; elevators; escalators; shades; awnings; screens; storm doors and windows; stoves; wall beds; refrigerators; attached cabinets; partitions; ducts and compressors; rugs and carpets; draperies; furniture and furnishings; together with all building materials and equipment now or hereafter delivered to the premises and intended to be installed therein; together with all additions thereto and replacements thereof (Grantor 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 Grantee to confirm the conveyance, transfer and assignments of any of the foregoing); and

TOGETHER with any and all rents which are now due or may hereafter become due by reason of the renting, leasing and bailment of property improvements thereon and Equipment; and

TOGETHER with any and all awards or payments, including interest thereon, and the right to receive the same, as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, or (c) any other injury to, taking of, or decrease in the value of, the premises, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Grantee and of the reasonable attorney's fees, costs and disbursements incurred by Grantee in connection with the collection of such award or payment.

TO HAVE AND TO HOLD all the aforesaid property, property rights, contract rights, Equipment and claims (all of which are collectively referred to herein as the "Premises") to the use, benefit and behoof of the Grantee, forever, in **Fee Simple**. Grantor warrants that Grantor has good title to the Premises, and is lawfully seized and possessed of the Premises and every part thereof, and has the right to convey same; that the Premises are unencumbered except as may be herein expressly provided; and that Grantor will forever warrant and defend the title to the Premises unto Grantee against the claims of all persons whomsoever.

Grantor hereby grants to Grantee a security interest in all of the Premises which constitutes personal property or fixtures, all proceeds and products thereof, and all supporting obligations ancillary to or arising in any way in connection therewith (herein sometimes collectively called the "Collateral") to secure the obligations of Grantor under the Note and the other Loan Documents and all other indebtedness and matters defined as Secured Indebtedness in this Mortgage. In addition to its rights hereunder or otherwise, Grantee shall have all of the rights of a secured party under the Alabama Uniform Commercial Code, as in effect from time to time, or under the Uniform Commercial Code in force, from time to time, in any other state to the extent the same is applicable law.

This instrument is a mortgage and security agreement passing legal title pursuant to the laws of the State of Alabama governing loan or Mortgage and security agreements; and is made and intended to secure the payment of the indebtedness of Grantor to Grantee evidenced by the Note in accordance with the terms thereof, together with any and all other indebtedness now owing or which may hereafter be owing by Grantor to Grantee, however incurred, whether pursuant to any other documents executed in conjunction with the loan (any such document together with the Note and this Mortgage collectively referred to herein as the "Loan Documents"), and including advances by Grantee or any transferee of Grantee for the purpose of paying taxes or premiums on insurance on the Premises or to repair, maintain or improve the Premises (whether or not Grantor is at that time the owner of the Premises), and all renewal or renewals and extension or extensions and modification or modifications and consolidation or consolidations of the

Note or other indebtedness, either in whole or in part, and any and all other indebtedness now owing or which may hereafter be owing by Grantor (all of which are collectively referred to herein as the "Secured Indebtedness").

This Mortgage and the warranty of title contained herein are made expressly subject to the permitted title exceptions set forth on Exhibit B attached hereto.

REPRESENTATIONS, WARRANTIES AND COVENANTS OF GRANTOR

1. **Payment of Secured Indebtedness.** Grantor shall pay to Grantee the Secured Indebtedness with interest thereon as in the Note and this Mortgage provided.

2. **Taxes and Other Impositions.** Grantor shall pay, when due and payable, (a) all taxes, assessments, general or special, and other charges levied on, or assessed, placed or made against the Premises, this instrument or the Secured Indebtedness or any interest of the Grantee in the Premises or the obligations secured hereby; (b) premiums on policies of fire and other hazard insurance covering the Premises, as required in Section 3 herein; (c) premiums on all collaterally pledged life insurance policies, if any; (d) premiums for mortgage insurance, if this Mortgage and the Note are so insured; and (e) ground rents or other lease rentals, if any; payable by Grantor, Grantor shall promptly deliver to Grantee receipts showing payment in full of all of the above items.

3. **Insurance.**

(a) To the extent there are any structures or improvements on the Premises, Grantor shall keep the Premises insured for the benefit of Grantee against loss or damage by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles and smoke and such other hazards as Grantee may from time to time require, all in amounts approved by Grantee not exceeding 100% of full insurable value; all insurance herein provided for shall be in form and companies approved by Grantee; and, regardless of the types or amounts of insurance required and approved by Grantee, Grantor shall assign and deliver to Grantee, as collateral and further security for the payment of the Secured Indebtedness, all policies of insurance which insure against any loss or damage to the Premises, with loss payable to Grantee, without contribution by Grantee, pursuant to the New York Standard or other mortgagee clause satisfactory to Grantee. If Grantee, by reason of such insurance, receives any money for loss or damage, such amount may, at the option of Grantee, be retained and applied by Grantee toward payment of the Secured Indebtedness, or be paid over, wholly or in part, to Grantor for the repair or replacement of the Premises or any part thereof, or for any other purpose or object satisfactory to Grantee, but Grantee shall not be obligated to see to the proper application of any amount paid over to Grantor.

(b) Not less than 10 days prior to the expiration date of each policy of insurance required of Grantor pursuant to this Section, and of each policy of insurance held as additional collateral to secure Secured Indebtedness, Grantor shall deliver to Grantee a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment satisfactory to Grantee.

(c) In the event of a foreclosure of this Mortgage, the purchaser of the Premises shall succeed to all the rights of Grantor, including any right to unearned premiums, in and to all policies of insurance assigned and delivered to Grantee, with respect to all property conveyed and to be conveyed by this Mortgage, pursuant to the provisions of this Section.

4. **Maintenance of Premises.** Grantor shall maintain the Premises in substantially no less good condition and repair as of the date hereof, and shall not commit or suffer any waste to the Premises, and shall comply with, or cause to be complied with, all restrictive covenants, statutes, ordinances and requirements of any governmental authority relating to the Premises and the use thereof or any part thereof. Grantor shall promptly repair, restore, replace or rebuild any part of the Premises, now or hereafter encumbered by this Mortgage, which may be affected by any proceeding of the character referred to in Section 13 herein. No part of the Premises, including, but not limited to,

structure, parking lot, driveway, landscape scheme, timber or other ground improvement, equipment or other property, now or hereafter conveyed as security by or pursuant to this Mortgage, shall be removed, demolished or materially altered without the prior written consent of Grantee. Grantor shall complete, within a reasonable time, and pay for any structure or other improvement at any time in the process of construction on the property herein conveyed. Grantor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses which may be made of the Premises or any part thereof. Grantee and any persons authorized by Grantee shall have the right to enter and inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

5. **Cooperation.** Grantor shall execute and deliver (and pay the costs of preparation and recording thereof) to Grantee and to any subsequent holder from time to time, upon demand, any further instrument or instruments, 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 obligation hereby secured and the legal security title of Grantee to all or any part of the Premises intended to be hereby conveyed, whether now conveyed, later substituted for, or acquired subsequent to the date of this Mortgage and extensions or modifications thereof. Grantor, upon request, made either personally or by mail, shall certify by a writing, duly acknowledged, to Grantee or to any proposed assignee of this Mortgage, the amount of principal and interest then owing on the Secured Indebtedness and whether or not any offsets or defenses exist against the Secured Indebtedness, within 10 days in case the request is made personally, or within 15 days after the mailing of such request in case the request is made by mail.

6. **Status of Grantor; Suits and Claims; Loan Documents.** Grantor is and will continue to be (i) duly organized, validly existing and in good standing under the laws of its state of organization, (ii) authorized to do business in, and in good standing in, each state in which the Premises is located, and (iii) possessed of all requisite power and authority to carry on its business and to own and operate the Premises. Each Loan Document executed by Grantor has been duly authorized, executed and delivered by Grantor, and the obligations thereunder and the performance thereof by Grantor in accordance with their terms are and will continue to be within Grantor's power and authority (without the necessity of joinder or consent of any other person), are not and will not be in contravention of any Legal Requirement or any other document or agreement to which Grantor or the Premises is subject, and do not and will not result in the creation of any encumbrance against any assets or properties of Grantor, or any other person liable, directly or indirectly, for any of the Secured Indebtedness, except as expressly contemplated by the Loan Documents. There is no suit, action, claim, investigation, inquiry, proceeding or demand pending (or, to Grantor's knowledge, threatened) against Grantor or against any other person liable directly or indirectly for the Secured Indebtedness, except as has been disclosed in writing to Grantee in connection with the loan evidenced by the Note, or which affects the Premises (including, without limitation, any which challenges or otherwise pertains to Grantor's title to the Premises) or the validity, enforceability or priority of any of the Loan Documents. Grantor is not a "foreign person" within the meaning of the Internal Revenue Code of 1986, as amended, Sections 1445 and 7701 (i.e. Grantor is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined therein and in any regulations promulgated thereunder). The loan evidenced by the Note is solely for business and/or investment purposes, and is not intended for personal, family, household or agricultural purposes. Grantor further warrants that the proceeds of the Note shall be used for commercial purposes and stipulates that the loan evidenced by the Note shall be construed for all purposes as a commercial loan. Grantor's exact legal name is correctly set forth at the end of this Mortgage. Grantor is an organization of the type and (if not an unregistered entity) is organized under the laws of the state specified in the introductory paragraph of this Mortgage. Grantor will not cause or permit any change to be made in its name, identity (including its trade name or names), or limited liability company structure, unless Grantor shall have notified Grantee in writing of such change at least thirty (30) days prior to the effective date of such change, and shall have first taken all action required by Grantee for the purpose of further perfecting or protecting the lien and security interest of Grantee in the Premises. In addition, Grantor shall not change its corporate structure without first obtaining the Grantee's prior written consent. Grantor's principal place of business and chief executive office, and the place where Grantor keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording including, without limitation, software, writings, plans, specifications and schematics concerning the Premises, has for the preceding four (4) months (or, if less, the entire

period of the existence of Grantor) been and will continue to be (unless Grantor notifies Grantee of any change in writing at least thirty (30) days prior to the date of such change) the address of Grantor set forth at the end of this Mortgage. Grantor shall promptly notify Grantee (A) of any change of its organizational identification number, or (B) if Grantor does not now have an organization identification number and later obtains one, of such organizational identification number.

7. **Financial Matters.** Grantor is solvent after giving effect to all borrowings contemplated by the Loan Documents and no proceeding under any Debtor Relief Law (hereinafter defined) is pending (or, to Grantor's knowledge, threatened) by or against Grantor, or any affiliate of Grantor, as a debtor. All reports, statements, plans, budgets, applications, agreements and other data and information heretofore furnished or hereafter to be furnished by or on behalf of Grantor to Grantee in connection with the loan or loans evidenced by the Loan Documents (including, without limitation, all financial statements and financial information) are and will be true, correct and complete in all material respects as of their respective dates and do not and will not omit to state any fact or circumstance necessary to make the statements contained therein not misleading. No material adverse change has occurred since the dates of such reports, statements and other data in the financial condition of Grantor or, to Grantor's knowledge, of any tenant under any lease described therein. For the purposes of this paragraph, "Grantor" shall also include any person liable directly or indirectly for the Secured Indebtedness or any part thereof and any joint venturer or general partner of Grantor.

8. **No Other Liens.** Grantor will not, without the prior written consent of Grantee, create, place or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, or allow to remain, any deed to secure debt, mortgage, voluntary or involuntary lien, whether statutory, constitutional or contractual, security interest, encumbrance or charge, or conditional sale or other title retention document, against or covering the Premises, or any part thereof, other than the Permitted Encumbrances, regardless of whether the same are expressly or otherwise subordinate to the lien or security interest created in this Mortgage, and should any of the foregoing become attached hereafter in any manner to any part of the Premises without the prior written consent of Grantee, Grantor will cause the same to be promptly discharged and released. Grantor will own all parts of the Premises and will not acquire any fixtures, equipment or other property (including software embedded therein) forming a part of the Premises pursuant to a lease, license, security agreement or similar agreement, whereby any party has or may obtain the right to repossess or remove same, without the prior written consent of Grantee. If Grantee consents to the voluntary grant by Grantor of any mortgage, lien, security interest, or other encumbrance (hereinafter called "**Subordinate Lien**") conveying or encumbering any of the Premises or if the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable as to a Subordinate Lien, any such Subordinate Lien shall contain express covenants to the effect that: (i) the Subordinate Lien is unconditionally subordinate to this Mortgage and all Leases (hereinafter defined); (ii) if any action (whether judicial or pursuant to a power of sale) shall be instituted to foreclose or otherwise enforce the Subordinate Lien, no tenant of any of the Leases (hereinafter defined) shall be named as a party defendant, and no action shall be taken that would terminate any occupancy or tenancy without the prior written consent of Grantee; (iii) Rents (hereinafter defined), if collected by or for the Grantee of the Subordinate Lien, shall be applied first to the payment of the Secured Indebtedness then due and expenses incurred in the ownership, operation and maintenance of the Premises in such order as Grantee may determine, prior to being applied to any indebtedness secured by the Subordinate Lien; (iv) written notice of default under the Subordinate Lien and written notice of the commencement of any action (whether judicial or pursuant to a power of sale) to foreclose or otherwise enforce the Subordinate Lien or to seek the appointment of a receiver for all or any part of the Premises shall be given to Grantee with or immediately after the occurrence of any such default or commencement; and (v) neither the Grantee of the Subordinate Lien, nor any purchaser at foreclosure thereunder, nor anyone claiming by, through or under any of them shall succeed to any of Grantor's rights hereunder without the prior written consent of Grantee.

9. **Compliance with Legal Requirements.** The Premises and the use, operation and maintenance thereof and all activities thereon do and shall at all times comply with all applicable Legal Requirements (hereinafter defined). The Premises is not, and shall not be, dependent on any other property or premises or any interest therein other than the Premises to fulfill any requirement of any Legal Requirement. Grantor shall not, by act or omission, permit any

building or other improvement not subject to the lien and interest of this Mortgage to rely on the Premises or any interest therein to fulfill any requirement of any Legal Requirement. No improvement upon or use of any part of the Premises constitutes a nonconforming use under any zoning law or similar law or ordinance. Grantor has obtained and shall preserve in force all requisite zoning, utility, building, health, environmental and operating permits from the governmental authorities having jurisdiction over the Premises. If Grantor receives a notice or claim from any person that the Premises, or any use, activity, operation or maintenance thereof or thereon, is not in compliance with any Legal Requirement, Grantor will promptly furnish a copy of such notice or claim to Grantee. Grantor has received no notice and has no knowledge of any such noncompliance. As used in this Mortgage: (i) the term "Legal Requirement" means any Law (hereinafter defined), agreement, covenant, restriction, easement or condition (including, without limitation of the foregoing, any condition or requirement imposed by any insurance or surety company), as any of the same now exists or may be changed or amended or come into effect in the future; and (ii) the term "Law" means any federal, state or local law, statute, ordinance, code, rule, regulation, license, permit, authorization, decision, order, injunction or decree, domestic or foreign.

10. **Operation of Premises.** Grantor will not use or occupy or conduct any activity on, or allow the use or occupancy of or the conduct of any activity on, the Premises in any manner which violates any Legal Requirement or which constitutes a public or private nuisance or which makes void, voidable or cancelable, or increases the premium of, any insurance then in force with respect thereto. Grantor will not initiate or permit any zoning reclassification of the Premises or seek any variance under existing zoning ordinances applicable to the Premises or use or permit the use of the Premises in such a manner which would result in such use becoming a nonconforming use under applicable zoning ordinances or other Legal Requirement. Grantor will not impose any easement, restrictive covenant or encumbrance upon the Premises, execute or file any subdivision plat or condominium declaration affecting the Premises or consent to the annexation of the Premises to any municipality, without the prior written consent of Grantee. Grantor will not do or suffer to be done any act whereby the value of any part of the Premises may be lessened. Grantor will preserve, protect, renew, extend and retain all material rights and privileges granted for or applicable to the Premises. Without the prior written consent of Grantee, there shall be no drilling or exploration for or extraction, removal or production of any mineral, hydrocarbon, gas, natural element, compound or substance (including sand and gravel) from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof. Grantor will cause all debts and liabilities of any character (including without limitation all debts and liabilities for labor, material and equipment (including software embedded therein) and all debts and charges for utilities servicing the Premises) incurred in the construction, maintenance, operation and development of the Premises to be promptly paid.

1. ASSIGNMENT OF RENTS AND LEASES

2. 12. (a) Grantor hereby irrevocably assigns to Grantee all of Grantor's right, title and interest in, to and under: (i) all leases of the Premises or any portion thereof, and all other agreements of any kind relating to the use or occupancy of the Premises or any portion thereof, whether now existing or entered into after the date hereof ("Leases"); and (ii) the rents, revenue, income, issues, deposits and profits of the Premises, including, without limitation, all amounts payable and all rights and benefits accruing to Grantor under the Leases ("Payments"). The term "Leases" shall also include all guarantees of and security for the lessees' performance under the Leases, and all amendments, extensions, renewals or modifications to the Leases which are permitted hereunder. This is a present and absolute assignment, not an assignment for security purposes only, and Grantee's right to the Leases and Payments is not contingent upon, and may be exercised without possession of, the Premises.

3. (b) Grantee confers upon Grantor a license ("License") to collect and retain the Payments as they become due and payable, until the occurrence of a Default (as hereinafter defined) and any written demand for the Payments from Grantee required by the laws of the State of Alabama. Upon a Default, and such written demand, the License shall be automatically revoked

and Grantee may collect and apply the Payments pursuant to that certain Section entitled Application of Other Sums without further notice and without taking possession of the Premises. Grantor hereby irrevocably authorizes and directs the lessees under the Leases to rely upon and comply with any notice or demand by Grantee for the payment to Grantee of any rental or other sums which may at any time become due under the Leases, or for the performance of any of the lessees' undertakings under the Leases, and the lessees shall have no right or duty to inquire as to whether any Default has actually occurred or is then existing hereunder. Grantor hereby relieves the lessees from any liability to Grantor by reason of relying upon and complying with any such notice or demand by Grantee.

4. (c) The foregoing irrevocable assignment shall not cause Grantee to be: (i) a Grantee in possession; (ii) responsible or liable for the control, care, management or repair of the Premises or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; or (iii) responsible or liable for any waste committed on the Premises by the lessees under any of the Leases or any other parties; for any dangerous or defective condition of the Premises; or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any lessee, licensee, employee, invitee or other person. Grantee shall not directly or indirectly be liable to Grantor or any other person as a consequence of: (A) the exercise or failure to exercise by Grantee, or any of its employees, agents, contractors or subcontractors, of any of the rights, remedies or powers granted to Grantee hereunder; or (B) the failure or refusal of Grantee to perform or discharge any obligation, duty or liability of Grantor arising under the Leases.
1. (d) Grantor represents and warrants that: (i) no rent or other payment under any existing Lease has been paid by any lessee for more than one (1) month in advance; and (ii) none of the lessor's interests under any of the Leases has been transferred or assigned.
5. (e) Grantor covenants and agrees at Grantor's sole cost and expense to: (i) perform the obligations of lessor contained in the Leases and enforce by all commercially reasonable remedies available to Grantor for performance by the lessees of the obligations of the lessees contained in the Leases; (ii) give Grantee prompt written notice of any default which occurs with respect to any of the Leases and that is material to the performance of the Premises, whether the default be that of the lessee or of the lessor; (iii) exercise Grantor's best efforts to keep leased at all times all portions of the Premises that are capable of being leased at rentals not less than the fair market rental value; (iv) deliver to Grantee copies of each and every Lease if requested to do so following a Default under this Mortgage; and (v) execute and record such additional assignments of any Lease in form and substance reasonably acceptable to Grantee, as Grantee may request. Grantor shall not, without Grantee's prior written consent: (A) enter into any Leases after the date hereof; (B) execute any other assignment relating to any of the Leases; (C) discount any rent or other sums due under the Leases or collect the same in advance, other than to collect Payments not more than one (1) month in advance of the time when they become due; (D) terminate, modify or amend any of the terms of the Leases or in any manner release or discharge the lessees from any obligations thereunder (in each case to the extent the action is material to the performance of the Premises); or (E) subordinate or agree to subordinate any of the Leases to any other mortgage or encumbrance. Any such attempted action in violation of the provisions of this Section 7(e) shall be null and void. Without in any way limiting the requirement of Grantee's consent hereunder, any sums received by Grantor in consideration of any termination modification or amendment of any Lease (or the release or discharge of any lessee), which requires the consent of Grantee shall, at Grantee's option shall be applied to reduce the outstanding Secured Obligations.

(f) Within thirty (30) days after written request by Grantee, Grantor shall deliver to Grantee and to any party designated by Grantee estoppel certificates executed by Grantor and by each of the lessees, in recordable form, certifying (if such be the case): (i) that the Leases are in full force and effect; (ii) the date of each lessee's most recent payment of rent; (iii) that there are no defenses or offsets outstanding, or stating those claimed by Grantor or lessees under the Leases, as the case may be, and (iv) any other information required by Grantee.

13. **Condemnation.** Notwithstanding any taking of any property, herein conveyed and agreed to be conveyed, by eminent domain, alteration of the grade of any street or other injury to, or decrease in value of, the Premises by any public or quasi-public authority or corporation, Grantor shall continue to pay principal and interest on the Secured Indebtedness, and any reduction in the Secured Indebtedness resulting from the application by Grantee of any award or payment for such taking, alterations, injury or decrease in value of the Premises, as hereinafter set forth, shall be deemed to take effect only on the date of such receipt; and said award or payment may, at the option of Grantee, be retained and applied by Grantee toward payment of the Secured Indebtedness, or be paid over, wholly or in part, to Grantor 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 Grantee, but Grantee shall not be obligated to see to the application of any amount paid over to Grantor. If, prior to the receipt by Grantee of such award or payment, the Premises shall have been sold on foreclosure of this Mortgage, Grantee shall have the right to receive said award or payment to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, and of the reasonable counsel fees, costs and disbursements incurred by Grantee in connection with the collection of such award or payment.

14. **Environmental Matters.**

(a) **Definitions.** As used herein, "**Environmental Laws**" shall mean all existing or future federal, state and local statutes, ordinances, regulations, rules, executive orders, standards and requirements, including the requirements imposed by common law, concerning or relating to industrial hygiene and the protection of health and the environment including but not limited to: (a) those relating to the generation, manufacture, storage, transportation, disposal, release, emission or discharge of Hazardous Substances (as hereinafter defined); (b) those in connection with the construction, fuel supply, power generation and transmission, waste disposal or any other operations or processes relating to the Premises; and (c) those relating to the atmosphere, soil, surface and ground water, wetlands, stream sediments and vegetation on, under, in or about the Premises. Any terms mentioned herein which are defined in any Environmental Law shall have the meanings ascribed to such terms in said laws; provided, however, that if any of such laws are amended so as to broaden any term defined therein, such broader meaning shall apply subsequent to the effective date of such amendment.

(b) **Environmental Representations, Warranties and Covenants.** Grantor represents, warrants, covenants and agrees as follows:

(i) Neither Grantor nor the Premises or any occupant thereof is in violation of or subject to any existing, pending or threatened investigation or inquiry by any governmental authority pertaining to any Environmental Law. Grantor shall not cause or permit the Premises to be in violation of, or do anything which would subject the Premises to any remedial obligations under, any Environmental Law, and shall promptly notify Grantee in writing of any existing, pending or threatened investigation or inquiry by any governmental authority in connection with any Environmental Law. In addition, Grantor shall provide Grantee with copies of any and all material written communications with any governmental authority in connection with any Environmental Law, concurrently with Grantor's giving or receiving of same.

(ii) Grantor has taken all steps necessary to determine and has determined that there has been no release, spill, discharge, leak, disposal or emission (individually a "**Release**" and collectively, "**Releases**"), in violation of Environmental Law, of any Hazardous Material, Hazardous Substance or Hazardous Waste, including

gasoline, petroleum products, explosives, toxic substances, solid wastes and radioactive materials (collectively, "Hazardous Substances") at, upon, under or within the Premises. The use which Grantor or any other occupant of the Premises makes or intends to make of the Premises will not result in Release, in violation of Environmental Law, of any Hazardous Substances on or to the Premises. During the term of this Mortgage, Grantor shall take all steps necessary to determine whether there has been a Release of any Hazardous Substances on or to the Premises and if Grantor finds a Release in violation of Environmental Law has occurred, Grantor shall remove or remediate the same promptly upon discovery at its sole cost and expense.

(iii) The Premises has never been used by the present or previous owners and/or operators nor will be used in the future to refine, produce, store, handle, transfer, process, transport, generate, manufacture, heat, treat, recycle or dispose of Hazardous Substances.

(iv) The Premises: (i) is being and has been operated in compliance with all Environmental Laws, and all permits required thereunder have been obtained and complied with in all respects; and (ii) does not have any Hazardous Substances present excepting small quantities of petroleum and chemical products, in proper storage containers, that are necessary for the construction or operation of the commercial business of Grantor and its tenants, and the usual waste products therefrom ("Permitted Substances").

(v) Grantor will and will cause its tenants to operate the Premises in compliance with all Environmental Laws and, other than Permitted Substances, will not place or permit to be placed any Hazardous Substances on the Premises.

(vi) No lien has been attached to or threatened to be imposed upon the Premises, and there is no basis for the imposition of any such lien based on any governmental action under Environmental Laws. Neither Grantor nor any other person has been, is or will be involved in operations at the Premises which could lead to the imposition of environmental liability on Grantor, or on any subsequent or former owner of the Premises, or the creation of an environmental lien on the Premises. In the event that any such lien is filed, Grantor shall, within (30) days from the date that the Grantor is given notice of such lien (or within such shorter period of time as is appropriate in the event that steps have commenced to have the Premises sold), either: (i) pay the claim and remove the lien from the Premises; or (ii) furnish a cash deposit, bond or other security satisfactory in form and substance to Grantee in an amount sufficient to discharge the claim out of which the lien arises.

(c) Right to Inspect and Cure. Grantee shall have the right to conduct or have conducted by its agents or contractors such environmental inspections, audits and tests as Grantee shall deem necessary or advisable from time to time at the sole cost and expense of Grantor; **provided, however**, that Grantor shall not be obligated to bear the expense of such environmental inspections, audits and tests so long as (i) no Event of Default exists, and (ii) Grantee has no cause to believe in its sole reasonable judgment that there has been a Release or threatened Release of Hazardous Substances at the Premises or that Grantor or the Premises is in violation of any Environmental Law. The cost of such inspections, audits and tests, if chargeable to Grantor as aforesaid, shall be added to the Liabilities and shall be secured by this Mortgage. Grantor shall, and shall cause each tenant of the Premises to, cooperate with such inspection efforts; such cooperation shall include, without limitation, supplying all information requested concerning the operations conducted and Hazardous Substances located at the Premises. In the event that Grantor fails to comply with any Environmental Law, Grantee may, in addition to any of its other remedies under this Mortgage, cause the Premises to be in compliance with such laws and the cost of such compliance shall be added to the sums secured by this Mortgage in accordance with the provisions of Section 1 hereof.

DEFAULT

15. Each of the following events shall constitute a “Default” under this Mortgage, provided that if the event is one described in subparagraphs (b) through (d) it shall not constitute a Default until it continues uncured for ten (10) days after written notice to Grantor:

(a) Failure to Pay Indebtedness. Any of the Secured Indebtedness is not paid when due, regardless of how such amount may have become due.

(b) Nonperformance of Covenants. Any covenant, agreement or condition herein or in any other Loan Document (other than covenants otherwise addressed in another Subsection of this Section, such as covenants to pay the Secured Indebtedness) is not fully and timely performed, observed or kept.

(c) Default under other Loan Documents. A Default (other than a default otherwise addressed in another Subsection of this Section) occurs under any other Loan Document.

(d) Representations. Any statement, representation or warranty in any of the Loan Documents, or in any financial statement or any other writing heretofore or hereafter delivered to Grantee in connection with the Secured Indebtedness is false, misleading or erroneous in any material respect on the date hereof or on the date as of which such statement, representation or warranty is made.

(e) Bankruptcy or Insolvency. Grantor, or any person liable, directly or indirectly, for any of the Secured Indebtedness (or any general partner or joint venturer of such owner or other person):

(i) (A) Executes an assignment for the benefit of creditors, or takes any action in furtherance thereof; or (B) admits in writing its inability to pay, or fails to pay, its debts generally as they become due; or (C) as a debtor, files a petition, case, proceeding or other action pursuant to, or voluntarily seeks the benefit or benefits of, Title 11 of the United States Code as now or hereafter in effect or any other federal, state or local law, domestic or foreign, as now or hereafter in effect relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement, composition, extension or adjustment of debts, or similar laws affecting the rights of creditors (Title 11 of the United States Code and such other laws being herein called “Debtor Relief Laws”), or takes any action in furtherance thereof; or (D) seeks the appointment of a receiver, trustee, custodian or liquidator of the Premises or any part thereof or of any significant portion of its other property; or

(ii) Suffers the filing of a petition, case, proceeding or other action against it as a debtor under any Debtor Relief Law or seeking appointment of a receiver, trustee, custodian or liquidator of the Premises or any part thereof or of any significant portion of its other property, and (A) admits, acquiesces in or fails to contest diligently the material allegations thereof, or (B) the petition, case, proceeding or other action results in entry of any order for relief or order granting relief sought against it, or (C) in a proceeding under Debtor Relief Laws, the case is converted from one chapter to another, or (D) fails to have the petition, case, proceeding or other action permanently dismissed or discharged on or before the earlier of trial thereon or sixty (60) days next following the date of its filing; or

(iii) Conceals, removes, or permits to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or makes or suffers a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or makes any transfer of its property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or suffers or permits, while insolvent, any creditor to obtain a lien (other than as described in subparagraph (iv) below) upon any of its property through legal proceedings which are not vacated and such lien discharged prior to enforcement thereof and in any event within sixty (60) days from the date thereof; or

(iv) Fails to have discharged within a period of ten (10) days any attachment,

sequestration, or similar writ levied upon any of the Premises; or,

(v) Fails to pay immediately any final money judgment against it.

(f) Transfer of the Premises. Except as expressly permitted in this Mortgage, there occurs any sale, lease, conveyance, assignment, pledge, encumbrance, or transfer of all or any part of the Premises or any interest therein, voluntarily or involuntarily, whether by operation of law or otherwise. Grantee may, in its sole discretion, waive a default under this paragraph, but it shall have no obligation to do so, and any waiver may be conditioned upon such one or more of the following (if any) which Grantee may require: the grantee's integrity, reputation, character, creditworthiness and management ability being satisfactory to Grantee in its sole judgment and grantee executing, prior to such sale or transfer, a written assumption agreement containing such terms as Grantee may require, a principal paydown on the Note, an increase in the rate of interest payable under the Note, a transfer fee, a modification of the term of the Note, and any other modification of the Loan Documents which Grantee may require. NOTICE - THE SECURED INDEBTEDNESS IS SUBJECT TO CALL IN FULL IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY.

(g) Transfer of Ownership of Grantor. Should there occur any sale, pledge, encumbrance, assignment or transfer, voluntarily or involuntarily, whether by operation of law or otherwise, of any interest in Grantor or any parent entity of Grantor, without the prior written consent of Grantee.

(h) Grant of Easement, Etc. Without the prior written consent of Grantee, Grantor grants any easement or dedication, files any plat, condominium declaration, or restriction, or otherwise encumbers the Premises, or seeks or permits any zoning reclassification or variance, unless such action is expressly permitted by the Loan Documents or does not affect the Premises.

(i) Default Under Other Lien. A default or event of default occurs under any lien, security interest or assignment covering the Premises or any part thereof (whether or not Grantee has consented, and without hereby implying Grantee's consent, to any such lien, security interest or assignment not created hereunder), or the Grantee of any such lien, security interest or assignment declares a default or institutes foreclosure or other proceedings for the enforcement of its remedies thereunder.

(j) Destruction. To the extent of any improvements located on the Premises, the Premises is so demolished, destroyed or damaged that, in the reasonable opinion of Grantee, it cannot be restored or rebuilt with available funds to a profitable condition within a reasonable period of time and, in any event, prior to the final maturity date of the Note.

(k) Condemnation. (i) Any governmental authority shall require, or commence any proceeding for, the demolition of any structure comprising a part of the Premises, or (ii) there is commenced any proceeding to condemn or otherwise take pursuant to the power of eminent domain, or a contract for sale or a conveyance in lieu of such a taking is executed which provides for the transfer of, a material portion of the Premises, including but not limited to the taking (or transfer in lieu thereof) of any portion which would result in the blockage or substantial impairment of access or utility service to the Improvements or which would cause the Premises to fail to comply with any Legal Requirement.

(l) Liquidation, Etc. There occurs a liquidation, termination, dissolution, merger, consolidation or failure to maintain good standing in the State of Georgia and/or the state of incorporation or organization, if different (or in the case of an individual, the death or legal incapacity) of Grantor, any owner of the Premises other than Grantor, or any person obligated to pay any part of the Secured Indebtedness.

(m) Enforceability; Priority. Any Loan Document shall for any reason without Grantee's specific written consent cease to be in full force and effect, or shall be declared null and void or unenforceable in whole or in part, or the validity or enforceability thereof, in whole or in part, shall be challenged or denied by any party thereto other than Grantee; or the liens, mortgages or security interests of Grantee in any of the Premises become unenforceable in whole or in part, or cease to be of the priority herein required, or the validity or enforceability thereof, in whole or in part, shall be challenged or denied by Grantor or any person obligated to pay any part of the Secured Indebtedness.

If Grantee shall fail to give such notice and right to cure to Grantor as provided herein, the sole and exclusive remedy of Grantor for such failure shall be to seek appropriate equitable relief to enforce the agreement to give such notice and right to cure and to have any acceleration of the maturity of the Note and the Secured Indebtedness postponed or revoked and foreclosure or other proceedings in connection therewith delayed or terminated pending or upon the curing of such default in the manner and during the period of time permitted by such agreement, and Grantor shall have no right to damages or any other type of relief not herein specifically set out against Grantee, all of which damages or other relief are hereby waived by Grantor. Nothing herein or in any of the other Loan Documents shall operate or be construed to add on or make cumulative any cure or grace periods specified in any of the Loan Documents.

REMEDIES

16. If a Default occurs, Grantee may do any one or more of the following:

(a) enter upon and take possession of the Premises without the appointment of a receiver, or an application therefor, employ a managing agent of the Premises and let the same, either in its own name, or in the name of Grantor, and receive the rents, incomes, issues and profits of the Premises and apply the same, after payment of all necessary charges and expenses, on account of the Secured Indebtedness, and Grantor will transfer and assign to Grantee, in form satisfactory to Grantee, Grantor's lessor interest in any lease now or hereafter affecting the whole or any part of the Premises;

(b) pay any sums in any form or manner deemed expedient by Grantee to protect the security of this instrument or to cure any Default other than payment of interest or principal on Secured Indebtedness; make any payment hereby authorized to be made according to any bill, statement or estimate furnished or procured from the appropriate public officer or the party claiming payment without inquiry into the accuracy or validity thereof, and the receipt of any such public officer or party in the hands of Grantee shall be conclusive evidence of the validity and amount of items so paid, in which event the amounts so paid, with interest thereon from the date of such payment at the rate of interest stated in the Note shall be added to and become a part of the Secured Indebtedness and be immediately due and payable to Grantee; and Grantee shall be subrogated to any encumbrance, lien, claim or demand, and to all the rights and securities for the payment thereof, paid or discharged with the principal sum secured hereby or by Grantee under the provisions hereof, and any such subrogation rights shall be additional and cumulative security to this instrument;

(c) declare the entire Secured Indebtedness immediately due, payable and collectible, without notice to Grantor, regardless of maturity, and, in that event, the entire Secured Indebtedness shall become immediately due, payable and collectible; and thereupon, Grantee may sell and dispose of the Premises at public auction, at the usual place for conducting sales at the courthouse in the county where the Premises or any part thereof may be, to the highest bidder for cash, first advertising the time, terms and place of such sale by publishing a notice thereof once a week for four consecutive weeks in a newspaper in which sheriff's advertisements are published in said county, and after giving such other notice required by law; and Grantee may thereupon execute and deliver to the purchaser at said sale a sufficient conveyance of the Premises in fee simple, which conveyance may contain recitals as to the happening of the Default upon which the execution of the power of sale, herein granted, depends, and said recitals shall be presumptive evidence that all preliminary acts prerequisite to said sale were duly complied with; and Grantee, its

agents, representatives, successors or assigns, may bid and purchase at such sale; and Grantor hereby constitutes and appoints Grantee or its assigns agent and attorney in fact to make such recitals, sale and conveyance, and all of the acts of such attorney in fact are hereby ratified, and Grantor agrees that such recitals shall be binding and conclusive upon Grantor and that the conveyance to be made by Grantee, or its assigns, (and in the event of a deed in lieu of foreclosure, then as to such conveyance) shall be effectual to bar all right, title and interest, equity of redemption, including all statutory redemption, homestead, dower, curtesy and all other exemptions of Grantor, or its successors in interest, in and to said Premises; and Grantee, or its assigns, shall collect the proceeds of such sale, reserving therefrom all unpaid Secured Indebtedness with interest then due thereon, and all amounts advanced by Grantee for taxes, assessments, fire insurance premiums and other charges, with interest at the rate of interest stated in the Note thereon from date of payment, together with all costs and charges for advertising, and commissions for selling the Premises, and reasonable attorney's fees actually incurred, and pay over any surplus to Grantor (in the event of deficiency Grantor shall immediately on demand from Grantee pay over to Grantee, or its nominee, such deficiency); and Grantor agrees that possession of the Premises during the existence of the Secured Indebtedness by Grantor, or any person claiming under Grantor, shall be that of tenant under Grantee, or its assigns, and, in the case of a sale, as herein provided, Grantor or any person in possession under Grantor shall then become and be tenants holding over, and shall forthwith deliver possession to the purchaser at such sale, or be summarily dispossessed in accordance with the provisions of law applicable to tenants holding over; the power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise, and are in addition to any and all other remedies which Grantee may have at law or in equity. Grantee, in any action to foreclose this Mortgage, or upon any Default, shall be at liberty to apply for the appointment of a receiver of the rents and profits or of the Premises or both without notice, 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 the Grantee, or the solvency of any person or corporation liable for the payment of such amounts. In the case of any sale under this Mortgage by virtue of the exercise of the power herein granted, or pursuant to any order in any judicial proceedings or otherwise, at the election of Grantee the Premises or any part thereof may be sold in one parcel and as an entirety, or in such parcels, manner or order as Grantee in its sole discretion may elect, and one or more exercises of the power herein granted shall not extinguish or exhaust the power unless the entire Premises are sold or the Secured Indebtedness paid in full.

(d) Without limitation of Grantee's rights of enforcement with respect to the Collateral or any part thereof in accordance with the procedures for foreclosure of real estate, Grantee may exercise its rights of enforcement with respect to the Collateral or any part thereof under the Uniform Commercial Code of Alabama, as in effect from time to time (or under the Uniform Commercial Code in force, from time to time, in any other state to the extent the same is applicable law) and in conjunction with, in addition to or in substitution for those rights and remedies: (i) Grantee may enter upon Grantor's premises to take possession of, assemble and collect the Collateral or, to the extent and for those items of the Collateral permitted under applicable law, to render it unusable; (ii) Grantee may require Grantor to assemble the Collateral and make it available at a place Grantee designates which is mutually convenient to allow Grantee to take possession or dispose of the Collateral; (iii) written notice mailed to Grantor as provided herein at least five (5) days prior to the date of public sale of the Collateral or prior to the date after which private sale of the Collateral will be made shall constitute reasonable notice; provided that, if Grantee fails to comply with this clause (iii) in any respect, its liability for such failure shall be limited to the liability (if any) imposed on it as a matter of law under the Uniform Commercial Code of Alabama, as in effect from time to time (or under the Uniform Commercial Code in force, from time to time, in any other state to the extent the same is applicable law); (iv) any sale made pursuant to the provisions of this paragraph shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with and upon the same notice as required for the sale of the Premises under power of sale as provided in paragraph (c) above in this Section 16; (v) in the event of a foreclosure sale, whether made by Grantee under the terms hereof, or under judgment of a court, the Collateral and the other Premises may, at the option of Grantee, be sold as a whole; (vi) it shall not be necessary that Grantee take possession of the Collateral or any part thereof prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that the Collateral or any part thereof be present at the location of such sale; (vii) with respect to application of proceeds from disposition of the Collateral, the costs and expenses incident to disposition shall include the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and

the reasonable attorneys' fees and legal expenses (including, without limitation, the allocated costs for in-house legal services) incurred by Grantee; (viii) any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to nonpayment of the Secured Indebtedness or as to the occurrence of any default, or as to Grantee having declared all of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, or as to any other act or thing having been duly done by Grantee, shall be taken as prima facie evidence of the truth of the facts so stated and recited; (ix) Grantee may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Grantee, including the sending of notices and the conduct of the sale, but in the name and on behalf of Grantee; (x) Grantee may comply with any applicable state or federal law or regulatory requirements in connection with a disposition of the Collateral, and such compliance will not be considered to affect adversely the commercial reasonableness of any sale of the Collateral; (xi) Grantee may sell the Collateral without giving any warranties as to the Collateral, and specifically disclaim all warranties of title including, without limitation, warranties relating to title, possession, quiet enjoyment and the like, and all warranties of quality, merchantability and fitness for a specific purpose, and this procedure will not be considered to affect adversely the commercial reasonableness of any sale of the Collateral; (xii) Grantor acknowledges that a private sale of the Collateral may result in less proceeds than a public sale; and (xiii) Grantor acknowledges that the Collateral may be sold at a loss to Grantor, and that, in such event, Grantee shall have no liability or responsibility to Grantor for such loss.

(e) Grantee may proceed by a suit or suits in equity or at law, whether for collection of the Secured Indebtedness, the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Premises under the judgment or decree of any court or courts of competent jurisdiction.

(f) Grantee is authorized, prior or subsequent to the institution of any foreclosure proceedings, to the fullest extent permitted by applicable law, to enter upon the Premises, or any part thereof, and to take possession of the Premises and all books and records, and all recorded data of any kind or nature, regardless of the medium of recording including, without limitation, all software, writings, plans, specifications and schematics relating thereto, and to exercise without interference from Grantor any and all rights which Grantor has with respect to the management, possession, operation, protection or preservation of the Premises. Grantee shall not be deemed to have taken possession of the Premises or any part thereof except upon the exercise of its right to do so, and then only to the extent evidenced by its demand and overt act specifically for such purpose. All costs, expenses and liabilities of every character incurred by Grantee in managing, operating, maintaining, protecting or preserving the Premises shall constitute a demand obligation of Grantor (which obligation Grantor hereby promises to pay) to Grantee pursuant to this Mortgage. If necessary to obtain the possession provided for above, Grantee may invoke any and all legal remedies to dispossess Grantor. In connection with any action taken by Grantee pursuant to this Section, Grantee shall not be liable for any loss sustained by Grantor resulting from any failure to let the Premises or any part thereof, or from any act or omission of Grantee in managing the Premises unless such loss is caused by the willful misconduct and bad faith of Grantee, nor shall Grantee be obligated to perform or discharge any obligation, duty or liability of Grantor arising under any lease or other agreement relating to the Premises or arising under any Permitted Encumbrance or otherwise arising. Grantor hereby assents to, ratifies and confirms any and all actions of Grantee with respect to the Premises taken under this Section.

(g) Grantee shall as a matter of right be entitled to the appointment of a receiver or receivers for all or any part of the Premises, whether such receivership be incident to a proposed sale (or sales) of such property or otherwise, and without regard to the value of the Premises or the solvency of any person or persons liable for the payment of the Secured Indebtedness, and Grantor does hereby irrevocably consent to the appointment of such receiver or receivers, waives notice of such appointment, of any request therefor or hearing in connection therewith, and any and all defenses to such appointment, agrees not to oppose any application therefor by Grantee, and agrees that such appointment shall in no manner impair, prejudice or otherwise affect the rights of Grantee to application of Rents as provided in this Mortgage. Nothing herein is to be construed to deprive Grantee of any other right, remedy or privilege

it may have under the law to have a receiver appointed. Any money advanced by Grantee in connection with any such receivership shall be a demand obligation (which obligation Grantor hereby promises to pay) owing by Grantor to Grantee pursuant to this Mortgage.

(h) Grantee may terminate any commitment or obligation to lend or disburse funds under any Loan Document or enter into any other credit arrangement to or for the benefit of Grantor.

(i) Grantee may exercise any and all other rights and remedies which Grantee may have under the Loan Documents, or at law or in equity or otherwise.

MISCELLANEOUS

17. **Waiver of Homestead Rights.** Grantor, for himself and family, hereby waives and renounces all homestead exemption rights provided for by the Constitution and Laws of the United States and the State of Alabama, in and to the Premises as against the collection of the Secured Indebtedness, or any part thereof; and Grantor agrees that where, by the terms of the conveyance or the Note secured thereby, a day is named or a time fixed for the payment of any sum of money or the performance of any agreement, the time stated enters into the consideration and is of the essence of the whole contract.

18. **Remedies Cumulative.** The rights of Grantee, granted and arising under the clauses and covenants contained in this Mortgage and the Note, shall be separate, distinct and cumulative of other powers and rights herein granted and all other rights which Grantee may have in law or equity, and none of them shall be in exclusion of the others; and all of them are cumulative to the remedies for collection of indebtedness, enforcement of rights under Mortgages, and preservation of security as provided at law. No act of Grantee shall be construed as a election to proceed under any one provision herein or under the Note to the exclusion of any other provision, or an election of remedies to the bar of any other remedy allowed at law or in equity, anything herein or otherwise to the contrary notwithstanding.

19. **Notices.** Every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request personally served on one or more of the persons who shall be at the time hold the record title to the Premises, or on their heirs or successors, or mailed by depositing it in any post office station or letter box, enclosed in a postpaid envelope (a) addressed to such person or persons, or their heirs or successors, at his, their or its address last known to Grantee or (b) addressed to the street address of the Premises hereby conveyed.

20. **No Waiver.** Any indulgence or departure at any time by the Grantee from any of the provisions hereof, or of any obligation hereby secured, shall not modify the same or relate to the future or waive future compliance therewith by the Grantor.

21. **Gender; Titles; Construction.** The words "Grantor" and "Grantee" whenever used herein shall include all individuals, corporations (and if a corporation, its officers, employees, agents or attorneys) and any and all other persons or entities, and the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include, when appropriate, either gender and both singular and plural, the word "Note" shall also include one or more notes and the grammatical construction of sentences shall conform thereto.

22. **Modification or Termination.** The Loan Documents may only be modified or terminated by a written instrument or instruments intended for that purpose and executed by the party against which enforcement of the modification or termination is asserted. Any alleged modification or termination which is not so documented shall not be effective as to any party.

23. **No Partnership, Etc.** The relationship between Grantee and Grantor is solely that of lender and borrower. Grantee has no fiduciary or other special relationship with Grantor. Nothing contained in the Loan Documents is intended to create any partnership, joint venture, association or special relationship between Grantor and Grantee or in any way make Grantee a co-principal with Grantor with reference to the Premises. All agreed contractual duties between Grantor and Grantee are set forth herein and in the other Loan Documents and any additional implied covenants or duties are hereby disclaimed. Any inferences to the contrary of any of the foregoing are hereby expressly negated.

24. **Applicable Law.** THIS MORTGAGE, AND ITS VALIDITY, ENFORCEMENT AND INTERPRETATION, SHALL BE GOVERNED BY AND CONSTRUED, INTERPRETED AND ENFORCED IN ACCORDANCE WITH AND PURSUANT TO THE LAWS OF THE STATE OF ALABAMA (WITHOUT REGARD TO ANY CONFLICT OF LAWS PRINCIPLES) AND APPLICABLE UNITED STATES FEDERAL LAW, EXCEPT AS OTHERWISE REQUIRED BY MANDATORY PROVISIONS OF LAW AND EXCEPT TO THE EXTENT THAT REMEDIES PROVIDED BY THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF ALABAMA ARE GOVERNED BY THE LAWS OF SUCH OTHER JURISDICTION.

25. **Successors and Assigns.** The terms, provisions, covenants and conditions hereof shall be binding upon Grantor, and the heirs, devisees, representatives, successors and assigns of Grantor, and shall inure to the benefit of Grantee and shall constitute covenants running with the Land. All references in this Mortgage to Grantor shall be deemed to include all such heirs, devisees, representatives, successors and assigns of Grantor.

26. **Execution; Recording.** If this Mortgage has been executed in several counterparts, all of which are identical, all of which counterparts together shall constitute one and the same instrument. The date or dates reflected in the acknowledgments hereto indicate the date or dates of actual execution of this Mortgage, but such execution is as of the date shown on the first page hereof, and for purposes of identification and reference the date of this Mortgage shall be deemed to be the date reflected on the first page hereof. Grantor will cause this Mortgage and all amendments and supplements thereto and substitutions therefor and all financing statements and continuation statements relating thereto to be recorded, filed, re-recorded and refiled in such manner and in such places as Grantee shall reasonably request and will pay all such recording, filing, re-recording and refile taxes, fees and other charges.

27. **Reporting Compliance.** Grantor agrees to comply with any and all reporting requirements applicable to the transaction evidenced by the Note and secured by this Mortgage which are set forth in any law, statute, ordinance, rule, regulation, order or determination of any governmental authority, including but not limited to The International Investment Survey Act of 1976, The Agricultural Foreign Investment Disclosure Act of 1978, The Foreign Investment in Real Premises Tax Act of 1980 and the Tax Reform Act of 1984 and further agrees upon request of Grantee to furnish Grantee with evidence of such compliance.

28. **Invalidity of Certain Provisions.** A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

29. **Cancellation of Mortgage.** If all of the Secured Indebtedness be paid as the same becomes due and payable and all of the covenants, warranties, undertakings and agreements made in this Mortgage are kept and performed, and all other obligations, if any, of Grantee for further advances have been terminated, then, and in that event only, this Mortgage shall be cancelled by Grantee in due form at Grantor's cost. Without limitation, all provisions herein for indemnity of Grantee shall survive discharge of the Secured Indebtedness, and any foreclosure, release or termination of this Mortgage.

30. **Nature of Loan; Compliance with Usury Laws.** The loan evidenced by the Note is being made solely for the purpose of obtaining a Land Disturbance Permit (LDP) in order to carry out property development or

acquisition activities. It is the intent of Grantor and Grantee and all other parties to the Loan Documents to conform to and contract in strict compliance with applicable usury law from time to time in effect. All agreements between Grantee and Grantor (or any other party liable with respect to any indebtedness under the Loan Documents) are hereby limited by the provisions of this Section which shall override and control all such agreements, whether now existing or hereafter arising. In no way, nor in any event or contingency (including but not limited to prepayment, default, demand for payment, or acceleration of the maturity of any obligation), shall the interest taken, reserved, contracted for, charged, chargeable, or received under this Mortgage, the Note or any other Loan Document or otherwise, exceed the maximum nonusurious amount permitted by applicable law (the "Maximum Amount"). If, from any possible construction of any document, interest would otherwise be payable in excess of the Maximum Amount, any such construction shall be subject to the provisions of this Section and such document shall ipso facto be automatically reformed and the interest payable shall be automatically reduced to the Maximum Amount, without the necessity of execution of any amendment or new document. If Grantee shall ever receive anything of value which is characterized as interest under applicable law and which would apart from this provision be in excess of the Maximum Amount, an amount equal to the amount which would have been excessive interest shall, without penalty, be applied to the reduction of the principal amount owing on the Secured Indebtedness in the inverse order of its maturity and not to the payment of interest, or refunded to Grantor or the other payer thereof if and to the extent such amount which would have been excessive exceeds such unpaid principal. The right to accelerate maturity of the Note or any other Secured Indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Grantee does not intend to charge or receive any unearned interest in the event of acceleration. All interest paid or agreed to be paid to Grantee shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full stated term (including any renewal or extension) of such indebtedness so that the amount of interest on account of such indebtedness does not exceed the Maximum Amount. As used in this Section, the term "applicable law" shall mean the laws of the State of Alabama or the federal laws of the United States applicable to this transaction, whichever laws allow the greater interest, as such laws now exist or may be changed or amended or come into effect in the future.

31. **Subrogation to Existing Liens; Vendor's Lien.** To the extent that proceeds of the Note are used to pay indebtedness secured by any outstanding lien, security interest, charge or prior encumbrance against the Premises, such proceeds have been advanced by Grantee at Grantor's request, and Grantee shall be subrogated to any and all rights, security interests and liens owned by any owner or Grantee of such outstanding liens, security interests, charges or encumbrances, however remote, irrespective of whether said rights, liens, security interests, charges or encumbrances are released, and all of the same are recognized as valid and subsisting and are renewed and continued and merged herein to secure the Secured Indebtedness, but the terms and provisions of this Mortgage shall govern and control the manner and terms of enforcement of the liens, security interests, charges and encumbrances to which Grantee is subrogated hereunder. It is expressly understood that, in consideration of the payment of such indebtedness by Grantee, Grantor hereby waives and releases all demands and causes of action for offsets and payments in connection with the said indebtedness. If all or any portion of the proceeds of the loan evidenced by the Note or of any other secured indebtedness has been advanced for the purpose of paying the purchase price for all or a part of the Premises, no vendor's lien is waived; and Grantee shall have, and is hereby granted, a vendor's lien on the Premises as cumulative additional security for the Secured Indebtedness. Grantee may foreclose under this Mortgage or under the vendor's lien without waiving the other or may foreclose under both.

32. **No Impairment of Security.** The title, lien, security interest and other security rights of Grantee hereunder or under any other Loan Document shall not be impaired by any indulgence, moratorium or release granted by Grantee including, but not limited to, any renewal, extension or modification which Grantee may grant with respect to any Secured Indebtedness, or any surrender, compromise, release, renewal, extension, exchange or substitution which Grantee may grant in respect of the Premises, or any part thereof or any interest therein, or any release or indulgence granted to any endorser, guarantor or surety of any Secured Indebtedness. The taking of additional security by Grantee shall not release or impair the title, lien, security interest or other security rights of Grantee hereunder or affect the liability of Grantor or of any endorser, guarantor or surety, or improve the right of any junior lien Grantee in the Premises (without implying hereby Grantee's consent to any junior lien).

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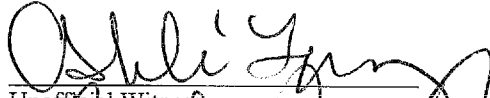
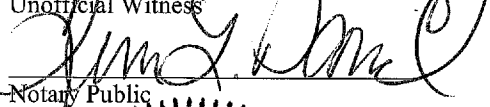
BY EXECUTION OF THIS MORTGAGE AND BY INITIALING THIS PARAGRAPH, GRANTOR EXPRESSLY: (A) ACKNOWLEDGES THE RIGHT OF GRANTEE TO ACCELERATE THE INDEBTEDNESS EVIDENCED BY THE NOTE AND THE POWER OF ATTORNEY GIVEN HEREIN TO GRANTEE TO SELL GRANTOR'S ESTATE AND INTEREST IN AND TO THE PREMISES BY NONJUDICIAL FORECLOSURE UPON DEFAULT BY GRANTOR WITHOUT ANY JUDICIAL HEARING AND WITHOUT ANY NOTICE OTHER THAN SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS MORTGAGE; (B) WAIVES ANY AND ALL RIGHTS WHICH GRANTOR MAY HAVE UNDER THE CONSTITUTION OF THE UNITED STATES INCLUDING THE FIFTH AND FOURTEENTH AMENDMENTS THEREOF, THE VARIOUS PROVISIONS OF THE CONSTITUTIONS FOR THE SEVERAL STATES, OR BY REASON OF ANY OTHER APPLICABLE LAW, (1) TO NOTICE AND RIGHT TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY LENDER OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO GRANTEE, EXCEPT SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE PROVIDED IN THIS MORTGAGE, AND (2) CONCERNING THE APPLICATION, RIGHTS OR BENEFITS OF ANY STATUTE OF LIMITATION OR ANY MORATORIUM, REINSTATEMENT, MARSHALING, FORBEARANCE, APPRAISEMENT, VALUATION, STAY, EXTENSION, HOMESTEAD, EXEMPTION OR REDEMPTION LAWS; (C) ACKNOWLEDGES THAT GRANTOR HAS READ THIS MORTGAGE AND ANY AND ALL QUESTIONS REGARDING THE LEGAL EFFECT OF THIS MORTGAGE AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO GRANTOR AND GRANTOR HAS CONSULTED WITH COUNSEL OF GRANTOR'S CHOICE PRIOR TO EXECUTING THIS MORTGAGE; AND (D) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF GRANTOR HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY GRANTOR AS PART OF A BARGAINED FOR LOAN TRANSACTION AND THAT THIS MORTGAGE IS VALID AND ENFORCEABLE BY GRANTEE AGAINST GRANTOR IN ACCORDANCE WITH ALL THE TERMS AND CONDITIONS HEREOF.

INITIALED BY GRANTOR

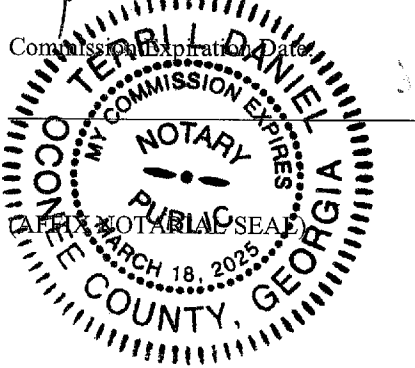
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IN WITNESS WHEREOF, this Mortgage has been duly executed and sealed by Grantor the day and year first above written.

Signed, sealed and delivered in
the presence of:


Unofficial Witness

Notary Public

Commission Expiration Date



GRANTOR:

Jordan LN, LLC

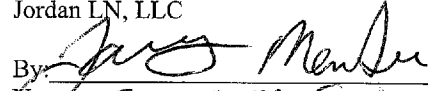
By:  (SEAL)
Name: James M Embury
Its: Sole Member

Exhibit "A"

Legal Description

All that part of the Southwest Quarter of the Southeast Quarter of Section 28, Township 3, Range 1 West in the City of Huntsville, Madison County, Alabama, particularly described as beginning at the center of the South boundary of the Southeast Quarter of said section 28;

Thence from the true Point of Beginning South 88 degrees 50 minutes West 656.00 feet;

Thence North 00 degrees 23 minutes 36 seconds East 933.13 feet;

Thence North 89 degrees 56 minutes 38 seconds East 479.20 feet to the Western right-of-way of Ardmore Highway;

Thence along the Western right-of-way of said Ardmore Highway South 32 degrees 24 minutes East 295.83 feet;

Thence South 01 degrees 00 minutes 13 seconds East 670.50 feet to the true Point of Beginning and containing 13.27 acres, or 578,118 square feet.

LESS AND EXCEPT a utility and drainage easement retained by the City of Huntsville described as follows:

All that part of the Southwest Quarter of the Southeast Quarter of Section 28, Township 3 South, Range 1 West in the City of Huntsville, Madison County, Alabama, particularly described as beginning at the center of the south boundary of the Southeast Quarter of said Section 28;

Thence from the true Point of Beginning South 88 degrees 50 minutes West 656.00 feet;

Thence North 00 degrees 23 minutes 36 seconds East 933.13 feet;

Thence North 89 degrees 56 minutes 38 seconds East 479.20 feet to the Western right-of-way of Ardmore Highway;

Thence along the Western right-of-way of said Ardmore Highway South 32 degrees 24 minutes East 14.151 feet;

Thence South 89 degrees 56 minutes 38 seconds West a distance of 483.70 feet;

Thence South 00 degrees 23 minutes 36 second a distance of 910.63 feet;

Thence North 88 degrees 50 minutes East a distance of 641.00 feet;

Thence North 01 degrees 00 minutes 13 seconds West a distance of 667.50 feet to a point on the western right-of-way of Ardmore Highway;

Thence along the western right-of-way of said Ardmore Highway South 32 degrees 24 minutes East a distance of 14.151 feet;

Thence South 01 degrees 00 minutes 13 seconds East a distance of 670.50 feet to the true point of beginning, containing 0.58 acres, or 25,269.97 square feet.

Exhibit "B"
Permitted Exceptions

1. The lien of taxes and assessments owing on the Property that are not yet due and payable.
2. All matters as shown on that certain ALTA/NSPS Land Title Survey prepared for Riverside Abstract for 0 Jordan Lane NW, Huntsville, Madison County, Alabama by Timothy Leigh Fish of Millman National Land Services, Alabama Professional Land Surveyor No. 30811, dated August 26, 2022, as Project No. 54426
3. Any prior reservation or conveyance, together with release of damages of minerals of every kind and character, including but not limited to, oil, gas, sand and gravel in, on and under the Property.