



St. Johns River State College
Student Housing Direct Support Organization
Board Meeting

Wednesday, October 16, 2024
1:15 pm
Orange Park Campus, Thrasher-Horne Center, Suite E

AGENDA

- I. Approval of Minutes from August 21, 2024, Board Meeting
- II. Loan Documents for Third Parties for the Student Housing Construction Loan
 - A. Landlord's Acknowledgment and Consent to Leasehold Mortgage
 - B. Memorandum of Ground Lease
 - C. Landlord's Waiver and Consent
 - D. Memorandum of Lease
- III. Construction Progress – Terry Thomas, AVP of Facilities, Planning, and Capital Projects
- IV. Other Business

St. Johns River State College
Student Housing Direct Support Organization

Board Meeting – August 21, 2024
1:15 pm, Palatka Campus,
Executive Conference Room

Board Members Attending: District Board of Trustees Designee Wendell Davis, President Joe Pickens, Dr. Melanie Brown, Kate Adornetto
Others Attending: Michelle Sjogren, Terry Thomas

Student Housing DSO Board Chairperson Wendell Davis called the meeting to order at 1:25 pm. A quorum was present.

I. **Approval of Minutes from May 15, 2024, Board Meeting**

Chairperson Wendell Davis reviewed and requested approval of the minutes from the May 15, 2024, board meeting.

A motion for approval was moved by President Joe Pickens, seconded by Dr. Melanie Brown, and unanimously approved.

II. **Update on Ad Valorem Exemption Application**

President Joe Pickens gave an update on the Ad Valorem Exemption Application. The result of his review is that the College is exempt from taxation. He noted that an application for an exception applies to a piece of property that is taxed. He wrote an opinion to Putnam County Property Appraiser that this is not applicable because the College is exempt from taxes and therefore the student housing project will also be exempt since it is solely for the benefit of the College. The Putnam County Property Appraiser, after receiving a reply from his attorney, sent a letter stating that in his opinion the College is currently exempt. However, this is a decision that needs to be made annually.

III. **Approval of Amendment #1 to Ground Lease Agreement between the District Board of Trustees of St. Johns River State College on behalf of St. Johns River State College and St. Johns River State College Student Housing Corporation**

President Joe Pickens reviewed and requested approval of Amendment #1 to the Ground Lease Agreement between the District Board of Trustees of St. Johns River State College on behalf of St. Johns River State College and St. Johns River State College Student Housing Corporation. He noted the list of changes made.

A motion for approval was moved by Dr. Melanie Brown, seconded by President Joe Pickens, and unanimously approved.

IV. **Approval of Amendment #1 to Ground Sublease Agreement between St. Johns River State College Student Housing Corporation and VikingArt, Inc. or Assigns**

President Joe Pickens reviewed and requested approval of Amendment #1 to Ground Sublease Agreement between St. Johns River State College Student Housing Corporation and VikingArt, Inc. or Assigns.

Chair Davis expressed appreciation for the work done by all of those bringing this about to a successful conclusion.

A motion for approval was moved by President Joe Pickens, seconded by Dr. Melanie Brown, and unanimously approved.

V. **Construction Progress**

Terry Thomas, AVP of Facilities, Planning, and Capital Projects, gave an update on the construction progress.

VI. **Other Business**

There was no other business.

The meeting was adjourned at 1:52 p.m.

This instrument was prepared by:

Charles R. Wood, Esq.
First Coast Law Group, PLLC
12428 San Jose Blvd., Ste 1
Jacksonville, Florida 32223

**LANDLORD'S ACKNOWLEDGMENT
AND CONSENT TO LEASEHOLD MORTGAGE**

St. Johns River State College Student Housing Corporation, a Florida not for profit corporation (hereinafter the "Landlord") hereby gives this Landlord's Acknowledgement and Consent to Leasehold Mortgage ("Acknowledgement"), as follows:

1. The Amended Ground Sublease Lease Agreement dated August 29, 2024 (hereinafter the "Ground Lease") between Landlord and **VIKINGART, INC.**, a Florida corporation (hereinafter the "Tenant") is in full force and effect.
2. Landlord consents to a Leasehold Mortgage in the amount of **ELEVEN MILLION TWO HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$11,225,000.00)**, including any future advances, on the leasehold interest described in the Leasehold Mortgage by and between Tenant (as "Mortgagor") and **BARWICK BANKING COMPANY**, a Georgia banking company (hereinafter the "Leasehold Mortgagee"). A true and correct copy of the approved form of the Leasehold Mortgage is attached hereto as **Exhibit "A"**.
3. Landlord acknowledges that the rights of Tenant/Mortgagor will be assigned to Leasehold Mortgagee.
4. Landlord acknowledges Tenant's right to encumber the leasehold estate created by the Ground Lease.
5. Landlord acknowledges that the Leasehold Mortgage is given by Tenant to Leasehold Mortgagee for the purpose of perfecting a lien and security interest in and to Tenant's leasehold estate created by the Ground Lease.
6. Landlord acknowledges that Leasehold Mortgagee intends to rely on this Acknowledgement and Consent in extending credit to Tenant/Mortgagor and that Landlord affirms and hereby expresses its intention to be legally bound by the terms hereof. Subject to Tenant's written consent, this acknowledgement/consent will be incorporated into the Ground Lease by reference or exhibit.

LANDLORD:

St. Johns River State College Student Housing Corporation, a Florida not for profit corporation.

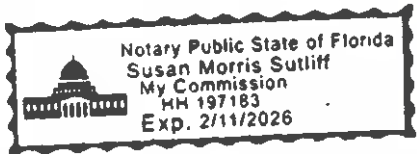
By: [Signature]
Print Name: JOE H. PICKENS
Title: PRESIDENT / Board Member

STATE OF FLORIDA

COUNTY OF Putnam

This instrument was acknowledged before me by means of: physical presence or online notarization; on this 19th day of SEPTEMBER, 2024, by JOE H. PICKENS, as duly PRESIDENT / Board Member of **St. Johns River State College Student Housing Corporation**, a Florida not for profit corporation, who is personally known to me or _____ has produced _____ as identification.

[Signature]
Notary Public, State of Florida
My Commission Expires: 02/11/2026



TENANT'S JOINDER

Tenant hereby joins into the foregoing Landlord's Acknowledgement and Consent to Leasehold Mortgage ("Acknowledgement").

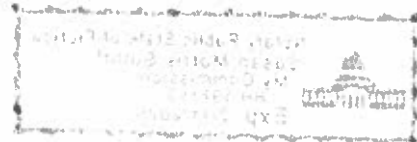
VIKINGART, INC., a Florida corporation

By: _____

Preston B. Sloan
Its: President

By: _____


Bradley C. Sloan
Its: Vice President and Secretary



CONSENT OF THE DISTRICT BOARD OF TRUSTEES
OF ST. JOHNS RIVER STATE COLLEGE

THE DISTRICT BOARD OF TRUSTEES OF ST. JOHNS RIVER STATE COLLEGE, a political subdivision of the State of Florida, as the Lessor of that certain Amended Ground Lease Agreement dated August 29, 2024, between Lessor and St. Johns River State College Student Housing Corporation, a Florida not for profit corporation, as Lessee, hereby joins in the execution of this instrument for the purpose of acknowledging and consenting to the sublease to VikingArt, Inc., a Florida corporation, and the Leasehold Mortgage.

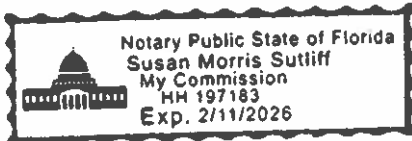
THE DISTRICT BOARD OF TRUSTEES OF ST. JOHNS RIVER STATE COLLEGE, a political subdivision of the State of Florida

By: 
Print Name: Rich Konando
Title: Chair

STATE OF FLORIDA

COUNTY OF POTNAM

This instrument was acknowledged before me by means of: physical presence or [] online notarization; on this 18th day of SEPTEMBER, 2024, by Rich Konando, as duly Chair of THE DISTRICT BOARD OF TRUSTEES OF ST. JOHNS RIVER STATE COLLEGE, a political subdivision of the State of Florida, who is personally known to me or _____ has produced _____ as identification.



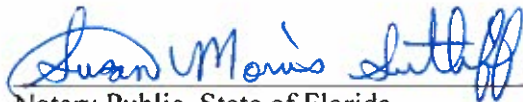

Notary Public, State of Florida
My Commission Expires: 02/11/2026

Exhibit A

**FORM OF LEASEHOLD
MORTGAGE**



Prepared By and Return To:

Charles R. Wood, Esq.
First Coast Law Group, PLLC
12428 San Jose Blvd., Ste 1
Jacksonville, Florida 32223

FL-240618

**LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES
AND RENTS AND SECURITY AGREEMENT**

THIS LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (this "Security Instrument" or "Mortgage") is made as of the ____ day of _____, 2024 by and among **VIKINGART, INC.**, a Florida corporation, whose address is 2000 Reid Street, Palatka, Florida 32177, as mortgagor ("Borrower" or "Mortgagor") to **BARWICK BANKING COMPANY**, a Georgia banking company, whose address is 2020 E. Main Street, Barwick, Georgia 31720, as mortgagee ("Lender" or "Mortgagee"). All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement (defined below).

RECITALS:

This Security Instrument is given to secure a loan in the principal sum of **ELEVEN MILLION TWO HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$11,225,000.00)** (the "Loan" or "Debt") which indebtedness is evidenced by the promissory note made by Borrower dated of even date (the "Note"), said principal (plus interest thereon) being payable as provided for in said Note, the terms of said Note and any agreement modifying it are incorporated herein by reference (such promissory note, together with all extensions, renewals, replacements, restatements, amendments, supplements, severances or modifications thereof being hereinafter referred to as the "Note"), and made pursuant to that certain Construction Loan Agreement, dated as of the date hereof, between Borrower and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, (the "Loan Agreement"))

Borrower desires to secure the payment of the Loan and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents (as herein defined).

This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement, the Note, and the Loan Documents dated the date hereof made by Borrower in favor of Lender delivered in connection with this Security Instrument, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument (the Loan Agreement, the Note, this Security Instrument, and all other documents evidencing or securing the Debt (including all additional mortgages, deeds to secure debt and assignments of leases and rents) or executed or delivered in connection therewith, are hereinafter referred to collectively as the "Loan Documents"). All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement.

ARTICLE 1 - GRANTS OF SECURITY

Section 1.1 PROPERTY MORTGAGED. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to and grant a security interest to Lender and its successors and assigns in, the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the "Property"):

(a) Ground Lease. That certain Amended Ground Sublease Agreement dated August 29, 2024, between **St. Johns River State College Student Housing Corporation**, a Florida not for profit corporation, as lessor (together with any future owner(s) of the lessor's interest in the Ground Lease, "Fee Owner") and Borrower, as lessee, evidenced by a Memorandum of Lease, dated as of the date hereof and recorded concurrently with this Security Instrument (collectively, as same may be further amended, restated, replaced, supplemented, assigned or otherwise modified from time to time, the "Ground Lease"), and the leasehold estate created thereby (the "Leasehold Estate") in the real property described therein and set forth in Exhibit A attached hereto (the "Land"), including all assignments, modifications, extensions and renewals of the Ground Lease and all credits, deposits, options, proceeds, privileges and rights of Borrower as tenant under the Ground Lease, including, but not limited to, the right, if any, to renew or extend the Ground Lease for a succeeding term or terms, and also including all the right, title, claim or demand whatsoever of Borrower either in law or in equity, in possession or expectancy, of, in and to Borrower's right, as tenant under the Ground Lease, to elect under Section 365(h)(1) of Title 11 U.S.C.A. § 101 et seq. and the regulations adopted and promulgated thereto (as the same may be amended from time to time, the "Bankruptcy Code") to terminate or treat the Ground Lease as terminated or to consent to the transfer of the Fee Owner's interest in the Land and the Improvements free and clear of the Ground Lease under Section 363 of the Bankruptcy Code in the event (i) of the bankruptcy, reorganization or insolvency of the Fee Owner, and (ii) (A) the rejection of the Ground Lease by such Fee Owner, as debtor in possession, or by a trustee for such Fee Owner, pursuant to Section 365 of the Bankruptcy Code or (B) any attempt by such Fee Owner, as debtor in possession, or by a trustee for such Fee Owner, to transfer such Fee Owner's interest in the Land and the Improvements under Section 363 of the Bankruptcy Code;

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (the "Improvements");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and/or the Improvements, including, but not limited to, those arising under and by virtue of the Ground Lease, and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and/or the Improvements, including, but not limited to, those arising under and by virtue of the Ground Lease, and every part and parcel thereof, with the appurtenances thereto;

(e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures, inventory and goods

walks, fences, shrubbery, driveways, fixtures, equipment, machinery, apparatus, fittings, building materials and other articles of personal property of every kind and nature whatsoever, now or hereafter ordered for eventual delivery to the Land (whether or not delivered thereto), and all such as are now or hereafter located in or upon any interest or estate in the Land or any part thereof and used or usable in connection with any present or future operation of the Land now owned or hereafter acquired by Mortgagor, including, without limiting the generality of the foregoing, all heating, lighting, laundry, clothes washing, clothes drying, incinerating and power equipment, engines, pipes, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire-prevention, fire-extinguishing, refrigerating, ventilating, and communications apparatus, television sets, radio systems, recording systems, computer equipment, air-cooling and air-conditioning apparatus, elevators, escalators, shades, awnings, draperies, curtains, fans, furniture, furnishings, carpeting, linoleum and other floor coverings, screens, storm doors and windows, stoves, gas and electric ranges, refrigerators, garbage disposals, sump pumps, dishwashers, washers, dryers, attached cabinets, partitions, ducts and compressors, landscaping, swimming pools, lawn and garden equipment, security systems and including all equipment installed or to be installed or used or usable in the operation of the building or buildings or appurtenant facilities erected or to be erected in or upon the Land) and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Land and the Improvements (collectively, the "Personal Property"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the State or States where any of the Property is located (the "Uniform Commercial Code"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above. Disposition of any of the aforesaid or of any interest therein is prohibited; however, if any disposition is made in violation hereof, the Mortgagee shall have a security interest in the proceeds therefrom to the fullest extent permitted by the laws of Florida;

(f) Leases and Rents. All leases, subleases and other agreements, whether or not in writing, including, without limitation, the Ground Lease, affecting the use, enjoyment or occupancy of the Land and/or the Improvements heretofore or hereafter entered into and all extensions, amendments and modifications thereto, whether before or after the filing by or against Borrower of any petition for relief under Title 11 U.S.C.A. § 101 et seq. and the regulations adopted and promulgated thereto (as the same may be amended from time to time, the "Bankruptcy Code") (the "Leases") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, any guaranties of the lessees' obligations thereunder, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, payments in connection with any termination, cancellation or surrender of any Lease, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and/or the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code and all proceeds from the sale or other disposition of the Leases (the "Rents") and the right to receive and apply the Rents to the payment of the Debt;

(g) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(h) Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(i) Tax Certiorari. All refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(k) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(l) Agreements. To the extent permitted by law, all agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

(m) Intangibles. To the extent permitted by law, all trade names, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(n) Accounts. All Accounts, Account Collateral, reserves, escrows and deposit accounts maintained by Borrower with respect to the Property including, without limitation, the Lockbox Account and the Property Account, and all complete securities, investments, property and financial assets held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(o) Causes of Action. All causes of action and claims (including, without limitation, all causes of action or claims arising in tort, by contract, by fraud or by concealment of material fact) against any Person for damages or injury to the Property or in connection with any transactions financed in whole or in part by the proceeds of the Loan ("Cause of Action");

(p) Services. Any right to payment or for services rendered, whether or not yet earned by performance, arising from the operation of the improvements or any other facility on the Land, including, without limitation, (1) all accounts arising from the operation of the improvements and all proceeds thereof (whether cash or non-cash, movable or immovable, tangible or intangible) received upon the sale, exchange, transfer, collection or other disposition or substitution thereof, and (2) all rights to payment from any consumer credit/charge card organization or entity, including, without limitation, payments arising from the use of the American Express Card, Visa Card, MasterCard, or any other credit card, including those now existing or hereinafter created or any substitution therefor and all proceeds thereof (whether cash or non-cash, movable or immovable, tangible or intangible) received upon the sale, exchange, transfer, collection or other disposition or substitution thereof

(q) Other Rights. All the right, title and interest (but not the obligations) of Mortgagor, present and future, in and to all present and future accounts, contract rights (including all fees and other obligations set forth in the Mortgagee's commitment to make the Loan), general intangibles, chattel paper, documents and instruments including but not limited to licenses, construction contracts, service contracts, utility contracts,

options, permits, public works agreements, bonds, deposits and payments thereunder, relating or appertaining to the Land and other property described herein and its development, occupancy and use.

(r) Additional Rights. Any and all other rights of Borrower in and to the items set forth in Subsections (a) through (q) above.

Section 1.2 ASSIGNMENT OF LEASES AND RENTS. Borrower hereby absolutely and unconditionally assigns to Lender Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of this Section 1.2, the provisions of the Assignment of Leases and the provisions of and the Loan Agreement, Lender grants to Borrower a revocable license to collect and receive the Rents. Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

Section 1.3 SECURITY AGREEMENT. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations, (as herein defined) a security interest in the Personal Property, the Accounts, and the Account Collateral to the full extent that the Personal Property, the Accounts and the Account Collateral may be subject to the Uniform Commercial Code.

Section 1.4 PLEDGE OF MONIES HELD. Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender, including, without limitation, any sums deposited in the Reserve Funds, the Accounts, Net Proceeds and Awards, as additional security for the Obligations until expended or applied as provided in the Loan Agreement or this Security Instrument.

Section 1.5 CONDITIONS TO GRANT. TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender and its successors and assigns, forever. PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note and this Security Instrument, shall well and truly perform the Other Obligations (as herein defined) as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein, in the Note and in the Loan Agreement, these presents and the estate hereby granted shall cease, terminate and be void. Borrower hereby warrants and shall indemnify and hold Lender harmless, including Lender's attorneys' fees and costs, from any and all claims made against Lender and or Borrower's interest in and to the Property as hereby mortgaged to Lender by Borrower.

ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 DEBT. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt, including without limitation,

(a) the payment of the indebtedness evidenced by the Note in lawful money of the United States of America;

(b) the payment of interest, default interest, late charges and other sums, as provided in the Note, the Loan Agreement, this Security Instrument or the other Loan Documents;

(c) the payment of all other moneys agreed or provided to be paid by Borrower in the Note, the Loan Agreement, this Security Instrument or the other Loan Documents;

(d) the payment of all sums advanced pursuant to the Loan Agreement or this Security Instrument to protect and preserve the Property and the lien and the security interest created hereby;

(e) the payment of all sums advanced and costs and expenses incurred by Lender in connection with the Debt or any part thereof, any modification, amendment, renewal, extension, or change of or substitution for the Debt or any part thereof, or the acquisition or perfection of the security therefor, whether made or incurred at the request of Borrower or Lender; and

(f) only existing obligations under the Loan Documents, but also such future advances, whether such advances are obligatory or are to be made at the option of Lender, to the same extent as if such future advances are made on the date of the execution of this Mortgage. The total amount of Obligations 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 twice the face amount of the Note, plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property, with interest on such disbursements at the Default Rate as hereinafter defined.

Section 2.2 OTHER OBLIGATIONS. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the "Other Obligations"):

(a) the performance of all other obligations of Borrower contained herein;

(b) the performance of each obligation of Borrower contained in any other agreement given by Borrower to Lender which is for the purpose of further securing the obligations secured hereby, and any renewals, extensions, substitutions, replacements, amendments, modifications and changes thereto; and

(c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement, this Security Instrument or the other Loan Documents.

Section 2.3 DEBT AND OTHER OBLIGATIONS. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations, the uses, intents and purposes hereinafter mentioned, that is to say for the benefit and security of Mortgagee and for the enforcement of the payment of the Loan, the Note and all other loans, advances, debts, liabilities, obligations, covenants and duties owing by the Borrower and/or Mortgagor to the Mortgagee (and its successors and/or assigns) of any kind or nature, present or future (including any interest accruing thereon after maturity, or after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to the Borrower or Mortgagor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), whether direct or indirect (including those acquired by assignment or participation), absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, express or implied, under any documents evidencing or executed in connection with any of the foregoing; and any amendments, extensions, substitutions, renewals, replacements and/or increases of or to any of the foregoing, and all costs and expenses of the Mortgagee incurred in the documentation, negotiation, modification, enforcement, collection and otherwise in connection with any of the foregoing, including reasonable attorneys' fees and expense shall be referred to collectively below as the "Obligations."

ARTICLE 3 - BORROWER COVENANTS

Borrower covenants and agrees that all the covenants, conditions and agreements contained in the Loan Agreement, the Note, and the other Loan Documents are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein:

Section 3.1 PAYMENT OF DEBT. Borrower will pay the Debt at the time and in the manner provided in the Note, the Loan Agreement and in this Security Instrument.

Section 3.2 INCORPORATION BY REFERENCE. All the covenants, conditions and agreements contained in the Loan Agreement, the Note and all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 INSURANCE. Borrower shall obtain and maintain, or cause to be maintained, insurance in full force and effect at all times with respect to Borrower and the Property as required pursuant to the Loan Agreement.

Section 3.4 PAYMENT OF TAXES, ETC. Borrower shall promptly pay all Taxes and other charges in accordance with the terms of the Loan Agreement.

Section 3.5 MAINTENANCE AND USE OF PROPERTY. Borrower shall cause the Property to be maintained in a good and safe condition and repair in accordance with the terms of the Loan Agreement. Subject to the terms of the Loan Agreement, the Improvements and the Personal Property shall not be removed, demolished or materially altered or expanded (except for normal replacement of the Personal Property) without the consent of Lender. Subject to the terms of the Loan Agreement, Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty, or become damaged, worn or dilapidated or which may be affected by any Condemnation and shall complete and pay for any structure at any time in the process of construction or repair on the Land. Subject to the terms of the Loan Agreement, Borrower shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property or any part thereof. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

Section 3.6 WASTE. Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way impair the value of the Property or the security of this Security Instrument. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.7 PAYMENT FOR LABOR AND MATERIALS. Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property and never permit to exist in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof, except for the Permitted Encumbrances.

Section 3.8 PERFORMANCE OF OTHER AGREEMENTS. Borrower shall observe and perform each and every term to be observed or performed by Borrower pursuant to the terms of the Loan Agreement, any other Loan Documents and any agreement or recorded instrument affecting or pertaining to the Property, or given by Borrower to Lender for the purpose of further securing the Obligations and any amendments, modifications or changes thereto.

Section 3.9 CHANGE OF NAME, IDENTITY OR STRUCTURE. Except as may be permitted under the Loan Agreement, Borrower will not change Borrower's name, identity (including its trade name or

names) or corporate, partnership or other structure without first obtaining the prior written consent of Lender. Borrower hereby authorizes Lender, prior to or contemporaneously with the effective date of any such change, to file any financing statement or financing statement change reasonably required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form reasonably satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

Section 3.10 PROPERTY USE. The Property shall be used only for **student housing** and any ancillary uses relating thereto, and for no other uses without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 3.11 FURTHER ASSURANCES. At any and all times Mortgagor shall furnish and record all and every such further assurances as may be requisite or as the Mortgagee shall reasonably require for the better assuring and confirming unto the Mortgagee the estate and property hereby granted, assigned, conveyed or transferred, or intended so to be whether now owned or hereafter acquired; Mortgagor shall bear all expenses, charges and taxes in connection therewith.

Section 3.12 ESCROW FOR TAXES. To better secure the covenant to pay taxes and fees in the Loan Agreement, Mortgagor agrees that, if Lender so requests, Mortgagor shall deposit with Lender on the day of each month on which a payment of interest is due under the Note, beginning with the month following such request, one-twelfth of the annual taxes next due as estimated by Lender, plus one-twelfth of the annual fire, hazard and other insurance premiums as required herein, such deposit to be held by Lender, without interest, to pay said taxes and premiums. If payments of interest are due under the Note other than monthly, appropriate adjustment shall be made in the amount of the aforesaid periodic deposits.

Any amounts deposited pursuant to the provisions of this Section shall not be, nor be deemed to be, trust funds, nor shall they operate to curtail or reduce the Obligations secured hereby, and all such amounts may be commingled with the general funds of the depositor and be deposited with Mortgagee or at an institution designated by Mortgagee. Mortgagee shall not be responsible for the solvency of such institution, provided it is insured by the Federal Deposit Insurance Corporation or other regulatory agency at the time of designation. If at any time Mortgagee shall determine that the amount then on deposit shall be insufficient to pay an obligation in full, Mortgagor shall immediately after demand deposit with Mortgagee the amount of the deficiency determined by Mortgagee. Nothing contained in this Section shall be deemed to affect any right or remedy of Mortgagee under any provisions of this Security Instrument 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 rate provided for in the Note, to the Obligations secured hereby.

Section 3.13 CHANGE IN TAX LAW. In the event of the passage after date of this Security Instrument of any law changing in any way the laws for the taxation of deeds of trust or debts secured by deeds of trust, or the manner of collection of any such taxation so as to affect this Security Instrument, Mortgagee may give thirty (30) days' written notice to Mortgagor requiring the payment of the Obligations secured hereby. If such notice be given, the Obligations secured hereby shall become due and payable at the expiration of said thirty (30) days; provided, however, that such requirement of payment shall be ineffective if Mortgagor is permitted by law to pay the whole of such tax in addition to all other payments required hereunder, without any penalty or charge thereby accruing to Mortgagee, and if Mortgagor in fact pays such tax prior to the date upon which payment is required by such notice.

Section 3.14 ACTIVITIES ON THE PROPERTY. Mortgagor shall not suffer any act to be done or any conditions to exist on the Property or any part thereof or anything or article to be brought thereon (i) which may cause structural injury to the improvements on the Land; or (ii) which would cause the value or usefulness of the Property or any part thereof to diminish (ordinary wear and tear excepted); or (iii) which

may be dangerous, unless safeguarded as required by law; or (iv) which may in fact or in law, constitute a nuisance, public or private; or (v) which may void or make voidable any insurance then in force or required by the terms of this Mortgage, the Loan Agreement to be in force. Mortgagor shall not use or occupy the Property, and shall not suffer or permit any tenant under any lease to use or occupy the Property, in any manner that would constitute a violation of any state and/or federal laws involving controlled substances, even in a jurisdiction that allows such use by state or local law or ordinance. In the event that Mortgagor becomes aware of such a violation, Mortgagor shall take all actions permitted by law to terminate the activity constituting such violation. Any violation of this Section 3.14 is a material breach of this Mortgage and constitutes an Event of Default.

Section 3.15 ADDITIONAL INSURANCE. If required by the Mortgagee, in addition to the provisions of and to the extent not so provided by the Loan Agreement, Mortgagor shall at all times maintain during the entire term of this Mortgage the following insurance, in form and substance satisfactory to Mortgagee:

- (a) *Hazard/Property Insurance*. Mortgagor shall obtain and keep in effect hazard and property insurance to protect against fire, theft, damage, and other risks (including, if required, flood) in coverage to full extent required by Mortgagee, but in no event, less than total replacement value for all casualty policies;
- (b) *General Liability Insurance*. Mortgagor shall obtain and keep in effect insurance against liability on account of damage to persons or property in coverage to full extent required by Mortgagee;
- (c) *Workers' Compensation*. During any construction, repair, restoration or replacement of improvements on the Land, Mortgagor shall cause all contractors and subcontractors (including Mortgagor if it acts as a contractor) to obtain and keep in effect workers' compensation insurance to the full extent required by applicable law and also which shall cover all employees of each contractor and subcontractor; upon demand, Mortgagor shall provide evidence satisfactory to Mortgagee that it is complying with this covenant; and
- (d) *Additional Insurance*. All other insurance required by this Mortgage or by the Loan Documents.

All insurance for loss or damage shall provide that losses, if any, shall be payable to Mortgagee, as its interest may appear. Mortgagor will pay the premiums for all insurance and deliver to Mortgagee the policies of insurance or duplicates thereof, or other evidence satisfactory to Mortgagee of such insurance coverage. Each insurer shall agree, by endorsement upon the policy or policies issued by it, or by independent instrument furnished to Mortgagee, that (i) it will give Mortgagee thirty (30) days' prior written notice of the effective date of any material alteration or cancellation of such policy; and (ii) the coverage of Mortgagee shall not be terminated, reduced or affected in any manner regardless of any breach or violation by Mortgagor of any warranties, declarations or conditions of such insurance policy or policies. The proceeds of such insurance shall be applied, at Mortgagee's option, toward the replacement, restoration or repair of the Property which may be lost, stolen or destroyed or damaged or toward payment of any Obligations of Mortgagor to Mortgagee

Section 3.16 CONDEMNATION AWARDS. Should the grade of any street be altered or all or any part of the Property be condemned or taken through eminent domain proceedings, all or such part of any award or proceeds derived therefrom, as Mortgagee in its sole discretion may determine in writing, shall be paid to Mortgagee and applied to the payment of the Obligations secured hereby (in such manner or combination thereof, including inverse order of maturity of installments of principal, if any, as Mortgagee may, in its sole discretion, elect) and all such proceeds are hereby assigned to Mortgagee.

Section 3.17 COSTS OF DEFENDING AND ENFORCING THE LIEN. Mortgagor shall pay all costs, charges and expenses, including appraisals, title examinations, and reasonable attorney's fees, which Mortgagee may incur in defending or enforcing the validity or priority of the legal operation and effect of this Mortgage, or any term, covenant or condition hereof, or in collecting any sum secured hereby, or in protecting the security of Mortgagee including without limitation being a party in any condemnation, bankruptcy or administrative proceedings, or, if an Event of Default shall occur, in administering and executing the trust hereby created and performing their powers, privileges and duties hereunder. Mortgagee may make advances or payments for such purposes but all advances or payments made by Mortgagee for such purposes shall be repayable immediately by Mortgagor and shall bear interest at the Default Rate from the date the same shall become due and payable until the date paid, and any such sum or sums with interest as aforesaid shall become a part of the Obligations secured hereby; but no such advance or payment shall relieve Mortgagor from any default hereunder.

Section 3.18 MODIFICATION OF TERMS; NO NOVATION. Mortgagee may at any time, and from time to time, extend the time for payment of the Obligations secured hereby, or any part thereof, or interest thereon, and waive, modify or amend any of the terms, covenants or conditions in the Note, in this Mortgage or in any other Loan Document, in whole or in part, either at the request of Mortgagor or of any person having an interest in the Property, accept one or more notes in replacement or substitution of the Note, consent to the release of all or any part of the Property from the legal operation and effect of this Mortgage, take or release other security, release any party primarily or secondarily liable on the Note or hereunder or on such other security, grant extensions, renewals or indulgences therein or herein, apply to the payment of the principal and interest and premium, if any, of the Obligations secured hereby any part or all of the proceeds obtained by sale or otherwise as provided herein, without resort or regard to other security, or resort to any one or more of the securities or remedies which Mortgagee may have and which in its absolute discretion it may pursue for the payment of all or any part of the Obligations secured hereby, in such order and in such manner as it may determine, all without in any way releasing Mortgagor or any party secondarily liable from any of the terms, covenants or conditions of the Note, this Mortgage, or any other Loan Document, or relieving the unreleased Property from the legal operation and effect of this Mortgage for all amounts owing under the Note, the Loan Agreement and this Mortgage. Mortgagee and Mortgagor recognize and agree that the provisions of this Mortgage, the Note, and any other Loan Document may be modified by them or their successors or assigns at any time before or after default (which modification may involve increasing the rate of interest in the Note, agreeing that other charges should be paid, or modifying any other provision in any such instruments). Mortgagee may extend the time of payment, may agree to alter the terms of payment of the Obligations, and may grant partial releases of any portion of the property included herein. No such modification by Mortgagee and Mortgagor nor any such action by Mortgagee or the Mortgagor referred to above shall be a substitution or novation of the original Obligations or instruments evidencing or securing the same, but shall be considered a possible occurrence within the original contemplation of the parties.

Section 3.19 GOVERNMENTAL ACTION AFFECTING THE PROPERTY. Mortgagor agrees that in the event of the enactment of any law or ordinance, the promulgation of any zoning or other governmental regulation, or the rendition of any judicial decree restricting or affecting the use of the Property or rezoning the area wherein the same shall be situate which Mortgagee reasonably believes adversely affects the Property, Mortgagee may, upon at least sixty (60) days written notice to Mortgagor, require payment of the Obligations secured hereby at such time as may be stipulated in such notice, and the whole of the Obligations secured hereby, shall thereupon become due and payable.

Section 3.20 COMPLIANCE WITH LEASES. Mortgagor shall carry out all of its agreements and covenants as landlord contained in any leases (which word when used in this Mortgage shall include, without limitation, all agreements, licenses, contracts, reservations, accounts, and permits affecting all or any part of the Property) and not permit a lien or other encumbrance superior to such leases other than this Mortgage. No lease shall include any space, or grant to any tenant any right or interest in any area outside

of the limits of the Property. Upon demand of Mortgagee, Mortgagor shall furnish Mortgagee an executed copy of each lease immediately upon its execution. All future leases shall be written on the standard form accepted by Mortgagee, with only such changes as Mortgagee shall have approved in writing or on a lease agreement approved by Mortgagee and in accordance with the Ground Lease.

Section 3.21 LIMITATION ON SUBORDINATE LIENORS. Mortgagor covenants that Mortgagee of any subordinate lien shall have no right, and shall acquire no right, to terminate or modify any lease affecting the Property whether or not such lease is subordinate to the legal operation and effect of this Mortgage.

Section 3.22 DEPOSIT OF RENTS. All payments, including security deposits, under any lease received by Mortgagor shall be deemed held by Mortgagor in trust for the payment of the Obligations secured hereby. Mortgagor shall deposit in a non-interest bearing account or accounts with Mortgagee all payments (except security deposits made under residential leases, if any) made under all leases, which sums, subject to the rights of the tenants therein, may be used by Mortgagor in the ordinary course of Mortgagor's business to the extent permitted by law, until one or more of the Events of Default shall occur, but not thereafter.

Section 3.23 ASSIGNMENT OF BANKRUPTCY AWARDS. Mortgagor hereby assigns to the Mortgagee any award made hereafter to it in any court procedure involving any of the tenants in any bankruptcy, insolvency or reorganization proceeding in any state or federal court and any and all payments by any tenant in lieu of rent.

Section 3.24 LIMITATION OF LIABILITY UNDER LEASES. The Mortgagee shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Mortgagor under any lease; and Mortgagor hereby agrees to indemnify the Mortgagee for and to save them harmless from, any and all liability arising from any lease, or this assignment thereof and this assignment shall not place the responsibility for the control, care, management or repair of the Property upon the Mortgagee, nor make said Mortgagee liable for any negligence in the management, operation, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, agent, guest, or stranger.

Section 3.25 SECURITY DEPOSITS. Mortgagor shall deposit in an account or accounts with Mortgagee or its designee, under the depository's standard program for such accounts, all security deposits made under residential leases which sums, subject to the rights of the tenants therein, may be used by Mortgagor in the ordinary course of Mortgagor's business to the extent permitted by law, until one or more of the Events of Default shall occur, but not thereafter. All such deposits shall be the continuing responsibility of Mortgagor, and Mortgagor shall comply with all applicable requirements of state and local law where the Property is located.

Section 3.26 ENVIRONMENTAL COVENANTS.

Section 3.26.1 NO SUBSTANCES PRESENT. Mortgagor hereby represents and warrants to Mortgagee that, after a due and diligent investigation, to the best of its knowledge, there are not now and have never been any materials or substances located on or near the Property that, under federal, state, or local law, statute, ordinance, or regulation, or administrative or court order or decree, or private agreement (collectively, the "Environmental Laws"), are regulated as to use, generation, collection, storage, treatment, or disposal (such materials or substances are hereinafter collectively referred to as "Substances"). The term "Substances" includes any materials or substances whose release or threatened release may pose a risk to human health or the environment or impairment of property values and shall also include without limitation (i) asbestos in any form, (ii) urea formaldehyde foam insulation, (iii) paint containing lead, (iv) transformers or other equipment which contains dielectric fluid containing levels of polychlorinated biphenyls of 50 parts per million or more, and (v) petroleum in any form. Mortgagor further represents and warrants to Mortgagee that the Property is not now being used nor has it ever been used in the past for any activities

involving the use, generation, collection, storage, treatment, or disposal of any Substances. Mortgagor will not place or permit to be placed any Substances on or near the Property except for those Substances that are typically used in the operation of Mortgagor's business provided the same are in appropriately small quantities and are stored, used, and disposed of properly; or Substances that are approved in writing by Mortgagee.

Section 3.26.2 ACTING UPON PRESENCE OF SUBSTANCES. Mortgagor hereby covenants and agrees that, if at any time (i) Substances are spilled, emitted, disposed, or leaked in any amount; or (ii) it is determined that there are Substances located on, in, or under the Property other than those of which Mortgagee has approved in writing or which are permitted to be used on the Property without Mortgagee's written approval, Mortgagor shall immediately notify Mortgagee and any authorities required by law to be notified, and shall, within thirty (30) days thereafter or sooner if required by Mortgagee or any governmental authority, take or cause to be taken, at Mortgagor's sole expense, such action as may be required by Mortgagee or any governmental authority. If Mortgagor shall fail to take such action, Mortgagee may make advances or payments towards performance or satisfaction of the same but shall be under no obligation so to do; and all sums so advanced or paid, including all sums advanced or paid in connection with any investigation or judicial or administrative proceeding relating thereto, including, without limitation, reasonable attorneys' fees, expert fees, fines, or other penalty payments, shall be at once repayable by Mortgagor and shall bear interest at the Default Rate, from the date advanced or paid by Mortgagee until the date paid by Mortgagor to Mortgagee, and all sums so advanced or paid, with interest as aforesaid, shall become a part of the Obligations secured hereby.

Section 3.26.3 ENVIRONMENTAL AUDITS. Mortgagor, promptly upon the written request of Mortgagee from time to time, shall provide Mortgagee, at Mortgagor's expense, from time to time with an environmental site assessment or environmental audit report, or an update of such an assessment or report, all in scope, form, and content satisfactory to Mortgagee.

Section 3.26.4 ENVIRONMENTAL NOTICES. Mortgagor shall furnish to Mortgagee duplicate copies of all correspondence, notices, or reports it receives from any federal, state, or local agency or any other person regarding environmental matters or Substances at or near the Property, immediately upon Mortgagor's receipt thereof.

Section 3.26.5 CONDITION OF PROPERTY. Mortgagor hereby represents and warrants that there are no wells or septic tanks on the Property serving any other property; no wells or septic tanks on other property serving the Property; no burial grounds, archeological sites, or habitats of endangered or threatened species on the Property; and that no part of the Property is subject to tidal waters; has been designated as wetlands by any federal, state, or local law or governmental agency; or is located in a special flood hazard area.

Section 3.26.6 ENVIRONMENTAL INDEMNITY.

Section 3.26.6.1 Mortgagor shall at all times indemnify and hold harmless Mortgagee against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges, and expenses, of any nature whatsoever suffered or incurred by Mortgagee, whether as beneficiary of this Mortgage, as mortgagee in possession, or as successor-in-interest to Mortgagor by foreclosure deed or deed in lieu of foreclosure, under or on account of the Environmental Laws or any similar laws or regulations, including the assertion of any lien thereunder, with respect to:

- (a) any discharge of Substances, the threat of a discharge of any Substances, or the presence of any Substances affecting the Property whether or not the same originates

or emanates from the Property or any contiguous real estate including any loss of value of the Property as a result of any of the foregoing;

- (b) any costs of removal or remedial action incurred by the United States Government or any costs incurred by any other person or damages from injury to, destruction of, or loss of natural resources, including reasonable costs of assessing such injury, destruction or loss incurred pursuant to any Environmental Laws;
- (c) liability for personal injury or property damage arising under any statutory or common law tort theory, including, without limitation, damages assessed for the maintenance of a public or private nuisance or for the carrying on of an abnormally dangerous activity at or near the Property; and/or
- (d) any other environmental matter affecting the Property within the jurisdiction of the Environmental Protection Agency, any other federal agency, or any state or local environmental agency.

Mortgagor's obligations under this Agreement shall arise upon the discovery of the presence of any Substance, whether or not the Environmental Protection Agency, any other federal agency or any state or local environmental agency has taken or threatened any action in connection with the presence of any Substances.

ARTICLE 4 - REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender that representations and warranties contained in the Loan Agreement, the Note, and the other Loan Documents are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein:

Section 4.1 WARRANTY OF TITLE. Borrower has good leasehold title to the real property comprising part of the to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Borrower possesses a leasehold interest in the Land and the Improvements pursuant to the Ground Lease and that it owns the Property free and clear of all liens, encumbrances and charges whatsoever except for the Permitted Encumbrances. The Permitted Encumbrances do not and will not materially adversely affect or interfere with the value, or materially adversely affect or interfere with the current use or operation, of the Property, or the security intended to be provided by this Security Instrument or the ability of Borrower to repay the Note or any other amount owing under the Note, this Security Instrument, the Loan Agreement, or the other Loan Documents or to perform its obligations thereunder in accordance with the terms of the Loan Agreement, the Note, this Security Instrument or the other Loan Documents. Borrower further represents and warrants that (a) the Ground Lease is in full force and effect and has not been further modified or amended in any manner whatsoever, (b) there are no defaults under the Ground Lease beyond any applicable grace, cure or notice period, (c) all rents, additional rents and other sums due and payable under the Ground Lease have been paid in full, and (d) Borrower has not commenced any action or given or received any notice for the purpose of terminating the Ground Lease. This Security Instrument, when properly recorded in the appropriate records, together with the Assignment of Leases and any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the Property, subject only to Permitted Encumbrances and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, subject only to Permitted Encumbrances. The Assignment of Leases, when properly recorded in the appropriate records, creates a valid first priority assignment of, or a valid first priority security interest in, certain rights under the related Leases, subject only to a license granted to Borrower to exercise certain rights and to perform certain obligations of the lessor under such Leases, including the right to operate the

Property. No Person other than Borrower owns any interest in any payments due under such Leases that is superior to or of equal priority with the Lender's interest therein. Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all persons whomsoever.

ARTICLE 5 - OBLIGATIONS AND RELIANCES

Section 5.1 **RELATIONSHIP OF BORROWER AND LENDER**. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

Section 5.2 **NO RELIANCE ON LENDER**. The members, general partners, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 5.3 **NO LENDER OBLIGATIONS**. (a) Notwithstanding any provisions of this Mortgage to the contrary, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 5.4 **RELIANCE**. Borrower recognizes and acknowledges that in accepting the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, (i) Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in the Loan Agreement and Articles 3 and 4 hereof without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; (ii) that such reliance existed on the part of Lender prior to the date hereof; (iii) that the warranties and representations are a material inducement to Lender in accepting the Note, the Loan Agreement, this Security Instrument and the other Loan Documents; and (iv) that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in the Loan Agreement and Articles 3 and 4 hereof.

ARTICLE 6 - FURTHER ASSURANCES

Section 6.1 **RECORDING OF SECURITY INSTRUMENT, ETC.** Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Loan Agreement, this Security Instrument, the other Loan Documents, and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts,

assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, the other Loan Documents, or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 6.2 FURTHER ACTS, ETC. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the Property and rights hereby deeded, mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver and hereby authorizes Lender to file one or more financing statements or execute in the name of Borrower to the extent Lender may lawfully do so, one or more chattel mortgages or other instruments, to evidence more effectively the security interest of Lender in the Property or any Collateral. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation such rights and remedies available to Lender pursuant to this Section 6.2.

Section 6.3 CHANGES IN TAX, DEBT CREDIT AND DOCUMENTARY STAMP LAWS.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Lender shall have the option, exercisable by written notice of not less than ninety (90) days to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or other charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, exercisable by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, the Loan Agreement, this Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

Section 6.4 REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Documents, Borrower will issue, at Lender's sole cost and expense in lieu thereof, a replacement Note or other Loan Documents, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Documents in the same principal amount thereof and otherwise of like tenor.

Section 6.5 PERFORMANCE AT BORROWER'S EXPENSE. Borrower acknowledges and confirms that Lender shall impose certain administrative processing and/or commitment fees in connection with (a) the extension, renewal, modification, amendment and termination of the Loan, (b) the release or substitution of collateral therefor, (c) obtaining certain consents, waivers and approvals with respect to the

Property, or (d) the review of any Lease or proposed Lease or the preparation or review of any subordination, non-disturbance agreement (the occurrence of any of the above shall be called an "Event"). Borrower further acknowledges and confirms that it shall be responsible for the payment of all costs of reappraisal of the Property or any part thereof, to the extent required by law, regulation, Lender or any governmental or quasi-governmental authority. Borrower hereby acknowledges and agrees to pay, immediately, with or without demand, all such fees (as the same may be increased or decreased from time to time), and any additional fees of a similar type or nature which may be imposed by Lender from time to time, upon the occurrence of any Event. Wherever it is provided for herein that Borrower pay any costs and expenses, such costs and expenses shall include, but not be limited to, all reasonable out-of-pocket expenses of Lender.

Section 6.6 LEGAL FEES FOR ENFORCEMENT. (a) Borrower shall pay all reasonable legal fees incurred by Lender in connection with the preparation of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents and (b) Borrower shall pay to Lender on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Property or in collecting any amount payable hereunder or in enforcing its rights hereunder with respect to the Property (including commencing any foreclosure action), whether or not any legal proceeding is commenced hereunder or thereunder, together with interest thereon at the Default Rate from the date paid or incurred by Lender until such expenses are paid by Borrower.

ARTICLE 7 - DUE ON SALE/ENCUMBRANCE

Section 7.1 LENDER RELIANCE. Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

Section 7.2 NO SALE/ENCUMBRANCE. Borrower shall not transfer the Property or any part thereof or any interest therein or permit or suffer the Property or any part thereof or any interest therein to be transferred other than as expressly permitted pursuant to the terms of the Loan Agreement.

ARTICLE 8 - PREPAYMENT

Section 8.1 PREPAYMENT. The Debt may not be prepaid in whole or in part except in accordance with the express terms and conditions of the Loan Agreement and Note.

Section 8.2 RELEASE OF PROPERTY. Borrower shall not be entitled to a release of any portion of the Property from the lien of this Security Instrument except in accordance with terms and conditions of the Loan Agreement and Note.

ARTICLE 9 - RIGHTS AND REMEDIES

Section 9.1 REMEDIES. Upon the occurrence of and during the continuance of any Event of Default, Borrower agrees that Lender may, take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

(a) declare the entire unpaid Debt to be immediately due and payable, anything in the Note, in the Loan Agreement or in this Mortgage to the contrary notwithstanding; and in the event of any sale of all or any part of the Property, whether made under the power of sale herein granted, assent to a decree or through judicial proceedings, such unpaid principal amount shall automatically and without notice become so due and payable. If Mortgagee exercises Mortgagee's option to declare the entire unpaid principal amount of the Note to be due and payable, Mortgagor covenants to pay immediately the full amount of the Obligations secured hereby even though foreclosure or other court proceedings to collect the Obligations have not been commenced. Acceleration of maturity, once declared by Mortgagee, may at the option of Mortgagee, be rescinded by written acknowledgment to that effect by Mortgagee, but the tender and acceptance of partial payments alone shall not rescind or affect in any way such acceleration of maturity;

(b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(c) with or without entry, to the extent permitted and pursuant to the procedures provided by Applicable Law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;

(d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, in one or more parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement, or in the other Loan Documents;

(f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any Guarantor or of any person, firm or other entity liable for the payment of the Debt;

(h) subject to any Applicable Law, the license granted to Borrower under this Mortgage shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct business thereon; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted

by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, other charges, Insurance Premiums and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of any Collateral (including, without limitation, the Personal Property) or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral (including without limitation, the Personal Property), and (ii) request Borrower at its expense to assemble the Collateral, including without limitation, the Personal Property, and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral, including without limitation, the Personal Property, sent to Borrower in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) apply any sums then deposited in the Accounts and any other sums held in escrow or otherwise by Lender in accordance with the terms of this Security Instrument, the Loan Agreement, or any other Loan Documents to the payment of the following items in any order in its sole discretion:

(i) Taxes and other charges;

(ii) Insurance Premiums;

(iii) interest on the unpaid principal balance of the Note;

(iv) amortization of the unpaid principal balance of the Note; or

(v) all other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(k) surrender the Policies, collect the unearned Insurance Premiums and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Borrower to collect such Insurance Premiums;

(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion;

(m) foreclose by power of sale or otherwise and apply the proceeds of any recovery to the Debt or to any deficiency under this Security Instrument;

(n) exercise all rights and remedies under any Causes of Action, whether before or after any sale of the Property by foreclosure, power of sale, or otherwise and apply the proceeds of any recovery to the Debt or to any deficiency under this Security Instrument;

(o) pursue such other remedies as Lender may have under Applicable Law.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

Section 9.2 APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument, the Loan Agreement, or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 9.3 RIGHT TO CURE DEFAULTS. Upon the occurrence of any Default or Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt. The cost and expense of any cure hereunder (including reasonable attorneys' fees to the extent permitted by law), with interest as provided below, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Default or Event of Default shall bear interest at the Default Rate for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender and shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

Section 9.4 ACTIONS AND PROCEEDINGS. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and, after the occurrence and during the continuance of an Event of Default, to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

Section 9.5 RECOVERY OF SUMS REQUIRED TO BE PAID. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Borrower existing at the time such earlier action was commenced.

Section 9.6 OTHER RIGHTS, ETC. (a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or any Guarantor to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, the Loan Agreement, this Security Instrument or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to the Property or any other Collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other

provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 9.7 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lien with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lien. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 9.8 VIOLATION OF LAWS. If the Property is not in compliance with Legal Requirements, Lender may impose additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

Section 9.9 RIGHT OF ENTRY. Subject to the terms of the Loan Agreement, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

Section 9.10 SUBROGATION. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the Lender of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, and the performance and discharge of the Obligations.

Section 9.11 APPOINTMENT OF A RECEIVER. Until one or more of the Events of Default shall occur (but not thereafter), Mortgagor shall have possession of the Property and shall have the right to use and enjoy the same and to receive the rents thereof and therefrom. If one or more of the Events of Default shall occur, and without the requirement of any other showing, Mortgagee shall be entitled as a matter of right and to the extent permitted by law, without notice to Mortgagor, and without regard to the adequacy of the security, to the immediate appointment of a receiver of the Property and of the rents thereof and therefrom, in an ex parte proceeding with all such other powers as the court or courts making such appointment shall confer, and the rents thereof and therefrom are hereby assigned to Mortgagee as additional security under this Mortgage. Mortgagor shall deliver to the receiver appointed pursuant to the provisions of this Section, or to Mortgagee in the event of entry pursuant to the terms of the preceding Section, all original records, books, bank accounts, leases, agreements, security deposits of the tenants and all other materials relating to the operation of the Property.

Section 9.12 FORECLOSURE SALE. (a) If one or more of the Events of Default shall occur, the Mortgagee shall sell and in the case of default of any purchaser or purchasers shall resell all the Property as an entirety, or in such parcels and in such order as Mortgagee shall in writing request, or, in the absence of such request, as the Mortgagee may determine (Mortgagor hereby waiving for itself and for any person claiming by or through it application of the doctrine of marshalling of assets), at public auction at some convenient place or places in the jurisdiction in the state where the Property is situate, or in such other place or places as may be permitted by law, at such time, in such manner and upon such terms as the Mortgagee may fix and briefly specify in each notice of sale, which notice of sale shall state the time when, and the place where, the same is to be made, shall contain a brief general description of the property to be sold, and shall be sufficiently given if published as frequently and in such publication as may be required by law, and Mortgagee may cause such further public advertisement to be made as they may deem advisable, and any such sale may be adjourned by the Mortgagee by announcement at the time and place appointed for such

sale or for such adjourned sale, and, without further notice or publication, such sale may be made at the time and place to which the same shall be so adjourned. If one or more leases are entered into or recorded subsequent to the recording of this Mortgage or are otherwise subordinate to this Mortgage, the Mortgagee shall sell, subject to any one or more of such tenancies that are designated and selected by Mortgagee.

(b) Upon the completion of any sale and compliance with all the terms thereof, the Mortgagee shall execute and deliver to the purchaser or purchasers a good and sufficient deed of conveyance, assignment and transfer, lawfully conveying, assigning and transferring the property sold. Payment to the Mortgagee of the entire purchase money shall be full and sufficient discharge of any purchaser or purchasers of the property, sold as aforesaid, for the purchase money; and no such purchaser, or his representatives, successors or assigns, after paying such purchase money and receiving the deed shall be bound to see to the application of such purchase money.

(c) In the case of any sale of the Property or of any part thereof, whether under the power of sale herein granted, assent to decree or through other judicial proceedings, the purchase money, proceeds and avails thereof, together with any other sums which may then be held as security hereunder or be due under any of the provisions hereof as a part of the Property, shall be applied Debt in such priority and proportions as Lender in its discretion shall deem proper.

(d) Immediately upon the filing or docketing of suit preliminary to a foreclosure sale of the Property, or any part thereof under this Mortgage, there shall be and become due and owing by Mortgagor, an auctioneer's commission on the total amount of the indebtedness secured hereby equal to two and one-half percent (2 ½%), and Mortgagee shall not be required to receive the principal and interest in satisfaction of the Obligations secured hereby, but said sale may be proceeded with unless, prior to the day appointed therefor, tender is made of said principal, interest, commissions and all expenses and costs incident to such sale and all other sums that are part of the Obligations secured hereby.

(e) Mortgagee may bid and become the purchaser at any sale under this Mortgage. If Mortgagee is the purchaser at any such sale, Mortgagee may apply the outstanding indebtedness against all or any portion of the purchase price, including the deposit.

Section 9.13 COLLECTION OF REVENUES. In connection with the exercise by Mortgagee of the rights and remedies provided for in subsection 9.1(h) hereof:

(a) Mortgagee may notify any tenant, lessee or licensee of the Property, either in the name of the Mortgagee or Mortgagor, to make payment of revenues directly to Mortgagee or Mortgagor's agents, may advise any person of Mortgagee's interest in and to the revenues arising out of or in connection with the Property and may collect directly from such tenants, lessees and licensees all amounts due on account of such revenues;

(b) At Mortgagee's request, Mortgagor will provide written notification to any or all tenants, lessees and licensees of the property concerning Mortgagee's interest in the revenues arising out of or in connection with the Property and will request that such tenants, lessees and licensees forward payment thereof directly to Lender;

(c) Mortgagor shall hold any proceeds and collections of any of the revenues arising out of or in connection with the Property in trust for Mortgagee and shall not commingle such proceeds or collections with any other funds of Mortgagor; and

(d) Mortgagor shall deliver all such proceeds to Mortgagee immediately upon the receipt thereof by Mortgagor in the identical form received, but duly endorsed or assigned on behalf of Mortgagor to Mortgagee.

Section 9.14 USE AND OCCUPATION OF PROPERTY. Mortgagee may enter upon, occupy, and use all or any part of the Property and may exclude Mortgagor from the Land and the Improvements thereon or portion thereof as may have been so entered upon, occupied, or used. Mortgagee shall not be required to remove any personal Property from the Land and the Improvements upon Mortgagee's taking possession thereof, and may render any personal Property unusable to Mortgagor. In the event Mortgagor manages the Land and the improvements thereon, Mortgagor shall pay to Mortgagee on demand a reasonable fee for the management thereof in addition to the Obligations. Further, Mortgagee may construct such improvements on the Land or make such alterations, renovations, repairs, and replacements to the Improvements, as Mortgagee, in its sole discretion, deems proper or appropriate. The obligation of Mortgagor to pay such amounts and all expenses incurred by Mortgagee in the exercise of its rights hereunder shall be included in the Obligations and shall accrue interest at the default rate of interest stated in the Note.

Section 9.15 PARTIAL SALES. Mortgagor agrees that in case Mortgagee, in the exercise of the power of sale contained herein or in the exercise of any other rights hereunder given, elects to sell in parts or parcels, said sales may be held from time to time and that the power shall not be exhausted until all of the Property not previously sold shall have been sold, notwithstanding that the proceeds of such sales exceed, or may exceed, the Obligations.

Section 9.16 ASSEMBLY OF PROPERTY. Upon the occurrence of any Event of Default, Mortgagee may require Mortgagor to assemble the Property and make it available to Mortgagee, at Mortgagor's sole risk and expense, at a place or places to be designated by Mortgagee which are reasonably convenient to both Mortgagee and Mortgagor

Section 9.17 POWER OF ATTORNEY. Upon the occurrence of any Event of Default, Mortgagor hereby irrevocably constitutes and appoints Mortgagee as Mortgagor's true and lawful attorney in fact to take any action with respect to the Property to preserve, protect, or realize upon Mortgagee's interest therein, each at the sole risk, cost and expense of Mortgagor, but for the sole benefit of Mortgagee. The rights and powers granted Mortgagee by the within appointment include, but are not limited to, the right and power to: (a) prosecute, defend, compromise, settle, or release any action relating to the Property; (b) endorse the name of Mortgagor in favor of Mortgagee upon any and all checks or other items constituting revenues arising out of or in connection with the Property; (c) sign and endorse the name of Mortgagor on, and to receive as secured party, any of the Property; (d) sign and file or record on behalf of Mortgagor any financing or other statement in order to perfect or protect Mortgagee's security interest; (e) enter into any contracts or agreements relative to, and to take all action deemed necessary in connection with, the construction of any improvements on the Land; (f) manage, operate, maintain or repair the Land and the improvements; and (g) exercise the rights of Mortgagor under any contracts, leases or intangible personal property. Mortgagee shall not be obligated to perform any of such acts or to exercise any of such powers, but if Mortgagee elects so to perform or exercise, Mortgagee shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be responsible to Mortgagor except for Mortgagee's willful misconduct or gross negligence. All powers conferred upon Mortgagee by this Mortgage and Security Agreement, being coupled with an interest, shall be irrevocable until terminated by a written instrument executed by a duly authorized officer of the Mortgagee.

ARTICLE 10 - INDEMNIFICATIONS

Section 10.1 GENERAL INDEMNIFICATION. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless Lender, as well any and all of their affiliates, assignors, assignees, attorneys, agents, principals, officers, directors, employees, partners, limited partners, joint venturers, shareholders, members, associates, accountants, legal representatives, predecessors, successors, subsidiaries, parent companies, holding companies, insurers, and reinsurers, including without limitation any and all loan officers, loan processors, mortgage lenders, mortgage brokers, real estate agents, real estate brokers, appraisers, loan owners, investors, closing agents, title insurers, title agencies, underwriters, trusts

and trustees (as well as the officers, directors, members, shareholders, beneficiaries, and employees of the foregoing entities ("Indemnified Parties") from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Legal Requirements; (e) any and all claims and demands whatsoever which may be asserted against Lender 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; or (f) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the Loan evidenced by the Note and secured by this Security Instrument. Any amounts payable to Lender by reason of the application of this Section 10.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid.

Section 10.2 MORTGAGE AND/OR INTANGIBLE TAX. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Loan Agreement, the Note or any other Loan Document.

Section 10.3 ENVIRONMENTAL INDEMNITY. Simultaneously with this Security Instrument, Borrower and Indemnitor have executed and delivered the Environmental Indemnity.

ARTICLE 11 - WAIVERS

Section 11.1 WAIVER OF COUNTERCLAIM. Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Note, the Loan Agreement, any of the other Loan Documents, or the Obligations.

Section 11.2 MARSHALLING AND OTHER MATTERS. Borrower hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by Legal Requirements.

Section 11.3 WAIVER OF NOTICE. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except (a) with respect to matters for which this Security Instrument, the Loan Agreement or any other Loan Document, specifically and expressly provides for the giving of notice by Lender to Borrower, and (b) with respect to matters for which Lender is required by any Applicable Law to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

Section 11.4 WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 11.5 SOLE DISCRETION OF LENDER. Wherever pursuant to this Security Instrument (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the sole and absolute discretion of Lender, except as may be otherwise expressly and specifically provided herein or in any of the other Loan Documents.

ARTICLE 12 - SUBMISSION TO JURISDICTION

Section 12.1 SUBMISSION TO JURISDICTION. BORROWER AGREES, AT THE SOLE OPTION OF LENDER, TO THE JURISDICTION OF THE CIRCUIT COURT OF THE STATE OF FLORIDA IN THE COUNTY IN WHICH THE SUBJECT PROPERTY OF THIS SECURITY INSTRUMENTS IS LOCATED.

ARTICLE 13 - APPLICABLE LAW

Section 13.1 CHOICE OF LAW. THIS SECURITY INSTRUMENT SHALL BE DEEMED TO BE A CONTRACT ENTERED INTO PURSUANT TO THE LAWS OF THE STATE OF FLORIDA AND SHALL IN ALL RESPECTS BE GOVERNED, CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, PROVIDED HOWEVER, THAT WITH RESPECT TO THE CREATION, PERFECTION, PRIORITY AND ENFORCEMENT OF THE LIEN OF THIS SECURITY INSTRUMENT, AND THE DETERMINATION OF DEFICIENCY JUDGMENTS, THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED SHALL APPLY.

Section 13.2 PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any Legal Requirements ("Legal Requirements" shall mean, with respect to the Property, all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting the Property or any part thereof, or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting the Property or any part thereof, including, without limitation, any which may (a) require repairs, modifications or alterations in or to the Property or any part thereof, or (b) in any way limit the use and enjoyment thereof.

ARTICLE 14 - DEFINITIONS

Section 14.1 GENERAL DEFINITIONS. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any subsequent Lender of the Note," the word "Note," shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "legal fees", "attorneys' fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or

paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

Section 14.2 HEADINGS, ETC. The headings and captions of various Articles and Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

ARTICLE 15 - MISCELLANEOUS PROVISIONS

Section 15.1 NO ORAL CHANGE. This Security Instrument and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 15.2 LIABILITY. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 15.3 INAPPLICABLE PROVISIONS. If any term, covenant or condition of this Security Instrument or any other Loan Document, is held to be invalid, illegal or unenforceable in any respect, the Note and this Security Instrument or the other Loan Documents, as the case may be, shall be construed without such provision.

Section 15.4 DUPLICATE ORIGINALS; COUNTERPARTS. This Security Instrument may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Security Instrument may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Security Instrument. The failure of any party hereto to execute this Security Instrument, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 15.5 NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 15.6 NOTICES. All notices required or permitted under this Security Instrument, unless specifically provided otherwise in this Mortgage or by law, shall be in writing and shall be made by facsimile or by hand delivery, by overnight delivery service, or by certified mail, unrestricted delivery, return receipt requested, postage prepaid, addressed to Mortgagee or Mortgagor at the appropriate address set forth above or to such other address as may be hereafter specified by written notice by Mortgagee or Mortgagor. Notice shall be considered given as of the date of the facsimile or the hand delivery, one (1) calendar day after delivery to the overnight delivery service, or three (3) calendar days after the date of mailing, independent of the date of actual delivery or whether delivery is ever in fact made, as the case may be, provided the giver of notice can establish that notice was given as provided herein.

Section 15.7 MORTGAGEE. The Mortgagee shall be protected in acting upon any notice, request, consent, demand, statement, note or other paper or document believed by them to be genuine and to have been signed by the party or parties purporting to sign the same. The Mortgagee shall not be liable for any error of judgment, nor for any act done or step taken or omitted, nor for any mistake of law or fact, nor for anything which they may do or refrain from doing in good faith nor generally shall a Mortgagee have any accountability hereunder except for his own individual willful default.

Section 15.8 ESTOPPEL CERTIFICATES. Mortgagor, upon request, made either personally or by mail, shall, within six (6) days in case the request is made personally, or within ten (10) days after the mailing of such request in case the request is made by mail, certify, by a writing duly acknowledged, to Mortgagee or to any proposed assignee of the Note, the amount of principal and interest then owing on the Note and whether any offsets or defenses exist against the Obligations secured hereby. At the request of Mortgagee, such certificate shall also contain a statement that Mortgagor knows of no Event of Default nor of any other default which, after notice or lapse of time or both, would constitute an Event of Default, which has occurred and remains uncured as of the date of such certificate, or, if any such Event of Default or other default has occurred and remains uncured as of the date of such certificate, then such certificate shall contain a statement specifying the nature thereof, the time for which the same has continued and the action which Mortgagor has taken or proposes to take with respect thereto

Section 15.9 LEGAL CONSTRUCTION. This Mortgage shall be construed according to the laws of Florida (excluding Florida conflict of laws) and any court of competent jurisdiction of Florida shall have jurisdiction in any proceeding instituted to enforce this Mortgage and any objections to venue are hereby waived.

Section 15.10 USURY LIMITATIONS. No provision of this Mortgage shall require the payment or permit the collection of interest or other sum in excess of the maximum permitted by applicable law, including a judicial determination. If any excess of interest or other sum in such respect is herein provided for, or shall be adjudicated to be so provided for herein, neither Mortgagor nor its successors or assigns shall be obligated to pay such interest or other sum in excess of the amount permitted by applicable law, including a judicial determination, and the right to demand the payment of any such excess shall be and hereby is waived. The provisions of this Section shall control all other provisions of this Mortgage.

Section 15.11 RECORDING. Mortgagor covenants and agrees to promptly cause all documents required by Mortgagee to be properly recorded or filed, including this Mortgage, and to pay all fees, taxes and expenses incident thereto. Mortgagor shall hold harmless and indemnify Mortgagee against any liability incurred by reason of the imposition of any fee, tax or charge on the making and recording of this Mortgage.

Section 15.12 RIGHTS OF MORTGAGEE.

- (a) *Rights Not Limited*. The rights, powers, privileges and discretions (hereinafter collectively called the "rights") specifically granted to the Mortgagee and those specifically granted to Mortgagee under this Mortgage are not in limitation of but in addition to those to which they are entitled under any general or local law relating to and mortgages in Florida, now or hereafter existing.
- (b) *Benefit to Successors and Assigns*. The rights to which Mortgagee may be entitled shall inure to the benefit of its successors and assigns.
- (c) *Rights Cumulative*. All the rights of Mortgagee are cumulative and not alternative and may be enforced successively or concurrently.

Section 15.13 NO WAIVER. Failure of Mortgagee to exercise any of their rights shall not impair any of their rights nor be deemed a waiver thereof, and no waiver of any of their rights shall be deemed to apply to any other such rights, nor shall it be effective unless in writing and signed by the party waiving the right. The acceptance by Mortgagee of any partial payment after default or an Event of Default, with or without knowledge of the default or Event of Default, shall not be a waiver of the default or Event of Default unless Mortgagee shall specifically state in writing that the acceptance waives the default or Event of Default or states further conditions which must be satisfied to constitute such a waiver. The failure of Mortgagee to exercise the option for acceleration of maturity, foreclosure, or either, following an Event of Default or to

exercise any other option or privilege granted to Mortgagee hereunder in any one or more instances, shall not constitute a waiver of any such default, but such option or privilege shall remain continuously in force.

Section 15.14 MUTUAL WAIVER OF JURY TRIAL. Mortgagor and Mortgagee (by acceptance of this Mortgage) each, on behalf of itself and its successors and assigns, WAIVES to the fullest extent permitted by law all right to TRIAL BY JURY of any and all claims between them arising under this Mortgage, the Note, the Loan Agreement, or any other Loan Documents, and any and all claims arising under common law or under any statute of any state or the United States of America, whether any such claims be now existing or hereafter arising, now known or unknown. In making this waiver Mortgagee and Mortgagor acknowledge and agree that any and all claims made by Mortgagee and all claims made against Mortgagee shall be heard by a judge of a court of proper jurisdiction, and shall not be heard by a jury. Mortgagee and Mortgagor acknowledge and agree that THIS WAIVER OF TRIAL BY JURY IS A MATERIAL ELEMENT OF THE CONSIDERATION FOR THIS TRANSACTION. Mortgagee and Mortgagor, with advice of counsel, each acknowledges that it is knowingly and voluntarily waiving a legal right by agreeing to this waiver provision.

Section 15.15 WAIVER BY MORTGAGOR. Mortgagor waives, on behalf of itself and all persons now or hereafter interested in the Property, all rights under all appraisal, homestead, moratorium, valuation, redemption, exemption, stay, extension and marshalling statutes, laws or equities now or hereafter existing and agrees that no defense based on any thereof will be asserted in any action enforcing this Mortgage. Furthermore, Mortgagor hereby expressly waives the right or equity of redemption, whether arising under statute, common law, or both. Mortgagor represents and covenants that the Property forms no part of any property owned, used or claimed by Mortgagor as a business or residential homestead or as exempt from forced sale and disclaims and renounces all and every such claim thereto.

Section 15.16 INDEMNIFICATION. Mortgagee shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Mortgagor under any lease. Mortgagor shall indemnify the Mortgagee for and save them harmless from any and all liability arising from any lease or assignment of a lease as security under this Mortgage. Mortgagee shall not have any responsibility for the control, care, management or repair of the Property or be liable for any negligence in the management, operation, upkeep, repair or control of the Property resulting in loss or injury or death to any lessee or any other person or entity. The obligations and liabilities of Mortgagor under this paragraph shall survive any termination, satisfaction or assignment of this Mortgage and the exercise by Mortgagee of any of its rights or remedies hereunder including, without limitation, the acquisition of the Property by foreclosure or a conveyance in lieu of foreclosure.

Section 15.17 BINDING EFFECT. The terms and conditions agreed to by Mortgagor and the covenants of Mortgagor shall be binding upon the personal representatives, successors and assigns of Mortgagor and of each of them, but this provision does not waive any prohibition of assignment or any requirement of consent to an assignment under the other provisions of this Mortgage; any consent to an assignment shall not be consent to any further assignment, each of which must be specifically obtained in writing.

Section 15.18 TIME OF ESSENCE. Time is of the essence of the obligations of Mortgagor in this Mortgage and each and every term, covenant and condition made herein by or applicable to Mortgagor.

ARTICLE 16 - GROUND LEASE PROVISIONS

Section 16.1 NO MERGER OF FEE AND LEASEHOLD ESTATES; RELEASES. So long as any portion of the Debt shall remain unpaid, unless Lender shall otherwise consent, the fee title to the Land and the Leasehold Estate shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Borrower, Fee Owner, or in any other Person by purchase, operation of law or

otherwise. Lender reserves the right, at any time, to release portions of the Property, including, but not limited to, the Leasehold Estate, with or without consideration, at Lender's election, without waiving or affecting any of its rights hereunder or under the Note or the other Loan Documents and any such release shall not affect Lender's rights in connection with the portion of the Property not so released.

Section 16.2 BORROWER'S ACQUISITION OF FEE ESTATE. In the event that Borrower, so long as any portion of the Debt remains unpaid, shall be the owner of the fee title to the Land, the lien of this Security Instrument shall be spread to cover Borrower's fee title to the Land and said fee title shall be deemed to be included in the Property. Borrower agrees, at its sole cost and expense, including without limitation, Lender's reasonable attorney's fees, to (i) execute any and all documents or instruments necessary to subject its fee title to the Land to the lien of this Security Instrument; and (ii) provide a title insurance policy which shall insure that the lien of this Security Instrument is a first lien on Borrower's fee title to the Land.

Section 16.3 Bankruptcy.

(a) Subject to the terms of the Loan Agreement, Borrower shall not, in any event, including the bankruptcy, reorganization or insolvency of Borrower or Fee Owner, (i) surrender its leasehold estate, or any portion thereof, nor terminate, cancel or acquiesce in the rejection of the Ground Lease; (ii) consent or fail to object to any attempt by Fee Owner to sell or transfer its interest in the Land and the Improvements free and clear of the Ground Lease; or (iii) modify, change, supplement, alter or amend the Ground Lease in any respect, either orally or in writing. Subject to the terms of the Loan Agreement, Borrower does hereby expressly release, assign, relinquish and surrender unto Lender all its right, power and authority to terminate, cancel, acquiesce in the rejection of, consent or object to any attempted transfer Fee Owner's interest in the Land and the Improvements free and clear of the Ground Lease, or modify, change, supplement, alter or amend the Ground Lease in any respect, either orally or in writing, at any time, including in the event of the bankruptcy, reorganization or insolvency of Borrower or Fee Owner under the Ground Lease, and any attempt on the part of Borrower to exercise any such right without the consent of Lender shall be null and void. Notwithstanding the foregoing, in the event of a threatened termination of the Ground Lease due to the bankruptcy, reorganization or insolvency of Borrower, Borrower shall, at Lender's election, absolutely assign to Lender, in lieu of such termination, all of Borrower's right, title and interest in and to the Ground Lease.

(b) In the event the Ground Lease is rejected by Fee Owner, as debtor in possession, or by a trustee for Fee Owner, pursuant to Section 365 of the Bankruptcy Code, Borrower shall not exercise its right to elect under Section 365(h)(1) of the Bankruptcy Code to terminate or treat the Ground Lease as terminated. Any such election made shall be null and void. In any event, Borrower hereby waives, for the benefit of Lender, its successors and assigns only, and not enforceable by anyone else, the provisions of Section 365 of the Bankruptcy Code, or of any statute or rule of law now or hereafter in effect which gives or purports to give Borrower any right of election to terminate the Ground Lease, to acquiesce in the termination of the Ground Lease or to surrender possession of the Property in the event of the bankruptcy, reorganization or insolvency of Borrower or any other party including, without limitation, Fee Owner.

(c) In the event Fee Owner, as debtor in possession, or by a trustee for Fee Owner, attempts to transfer its interest in the Land and the Improvements free and clear of the Ground Lease pursuant to Section 363 of the Bankruptcy Code, Borrower shall not consent, acquiesce or fail to object to such attempted transfer. Any such consent, acquiescence or failure to object made shall be null and void. In any event, Borrower hereby waives, for the benefit of Lender, its successors and assigns only, and not enforceable by anyone else, the provisions of Section 363 of the Bankruptcy Code, or of any statute or rule of law now or hereafter in effect which gives or purports to give Borrower any right to consent to or acquiesce in the transfer of the Fee Owner's interest in the Land and the Improvements free and clear of the Ground Lease, to acquiesce in

the termination of the Ground Lease or to surrender possession of the Property in the event of the bankruptcy, reorganization or insolvency of Fee Owner or any other party.

Section 16.4 LEASEHOLD COVENANTS, REPRESENTATIONS AND WARRANTIES. Mortgagor makes the following covenants, representations and warranties with respect to the Ground Lease and the estate created thereby, as of the date thereof:

- (a) The Ground Lease is in full force and effect. No default of Mortgagor, as lessee or tenant, has occurred and is continuing under the Ground Lease; to the best of Mortgagor's knowledge, no default of the lessor has occurred and is continuing under the Lease; and, to the best of Mortgagor's knowledge, no event has occurred or exists that with the passage of time or service of notice, or both, would constitute a default by either Mortgagor or lessor under the Ground Lease.
- (b) All rents, additional rents, percentage rents and all other charges payable by Mortgagor to the lessors under the Ground Lease have been fully paid.
- (c) Mortgagor will promptly perform and observe all of the material terms, covenants and conditions required to be performed and observed by Mortgagor as lessee under the Ground Lease and maintain the Ground Lease in full force and effect until payment and performance in full of all Obligations.
- (d) If Mortgagor shall violate any of the covenants specified in Subsection (c) above, subject to the rights of the landlord under the Ground Lease, and any other restrictions contained in, terms or provisions of, the Ground Lease, Mortgagor grants Mortgagee the right (but not the obligation) to take such action as may be necessary to prevent or cure any default of Mortgagor under the Ground Lease if necessary or appropriate to protect Mortgagee's interest hereunder, and upon prior notification thereof to Mortgagor, Mortgagee shall have the right, subject to the rights of tenants and further subject to the Permitted Liens, to enter all or any portion of the Land or any improvements located thereon at such times and in such manner as Mortgagee deems reasonably necessary (i) to prevent or to cure any such default and (ii) to protect Mortgagee's interest hereunder; provided, however, that, unless termination of the Ground Lease or the lessor's repossession of the premises is imminent as a result of such default, then prior to exercising any rights under this Subsection (d), Mortgagee shall provide Mortgagor with written notice of its intent to prevent or cure such default, shall not take any immediate action and shall prior to taking any action allow Mortgagor five (5) business days to (i) prevent or cure such default or (ii) if prevention or cure is not reasonably possible to accomplish within such five (5) business day period, respond with a plan setting forth a reasonable time period for Mortgagor to prevent or cure such default.
- (e) The curing by Mortgagee of any default by Mortgagor under the Ground Lease shall not remove, cure or waive, as between Mortgagor and Mortgagee, the default which occurred hereunder by virtue of the default by Mortgagor under such Lease. All sums expended by Mortgagee in order to cure any such default shall be paid by Mortgagor to Mortgagee, upon demand, with interest thereon at the Default Rate specified in the Loan Agreement. All such indebtedness shall be deemed to be secured by this Mortgage.
- (f) Mortgagor shall notify Mortgagee promptly of (i) the occurrence of any material default by the lessor under the Lease, or the occurrence of any event which with the passage of time and/or service of notice would constitute a material default by the lessor under the Lease, and (ii) the receipt by Mortgagor of any notice from the lessor noting or claiming the occurrence of any

default by Mortgagor under the Lease, or the occurrence of any event that with the passage of time or service of notice, or both, would constitute a default by Mortgagor under the Lease (and shall deliver a copy of any written notice of default to Mortgagee.

- (g) Promptly upon demand by Mortgagee, but no more than one (1) time per calendar year (unless an Event of Default has occurred and is continuing), Mortgagor shall use reasonable efforts to obtain from the lessor and furnish to Mortgagee, the estoppel certificate of such lessor stating the date through which rent has been paid and whether or not there are any defaults under the Lease and specifying the nature for such claimed defaults, if any.
- (h) Mortgagor shall promptly notify Mortgagee, in writing, of any request made by either party to the Lease for reference or arbitration proceedings pursuant to such Lease and of the institution of any reference or arbitration proceedings, as well as of all proceedings thereunder, and will promptly deliver to Mortgagee a copy of the determination of the referees, arbitrators or appraisers in each such reference or arbitration proceeding. If an Event of Default exists and is continuing, Mortgagee shall have the right (but not the obligation), following the delivery of written notice to Mortgagor, to participate in the appointment of any referee or arbitrator to be appointed by Mortgagor and to participate in such reference or arbitration proceedings in association with Mortgagor or on its own behalf as an interested party. Mortgagor shall promptly notify Mortgagee, in writing, of the institution of any legal proceedings involving obligations under the Lease. If an Event of Default exists and is continuing, Mortgagee may intervene in any such legal proceedings and be made a party to them. Mortgagor shall promptly provide Mortgagee with a copy of any decision rendered in connection with such proceedings.
- (i) Mortgagor shall promptly execute, acknowledge and deliver to Mortgagee such instruments as may be required to permit Mortgagee to cure any default under the Lease or permit Mortgagee to take such other action required to enable Mortgagee to cure or remedy the matter in default and preserve the security interest of Mortgagee under the Lease. Upon the occurrence and continuance of a default under the Lease and an Event of Default, Mortgagor hereby irrevocably appoints Mortgagee as its true and lawful attorney-in-fact in Mortgagee's name or otherwise to do any and all acts and to execute any and all documents which are necessary to preserve any rights of Mortgagor to or under the Lease, or to preserve any rights of Mortgagor whatsoever in respect of any part of the Lease (and the above powers granted to Mortgagee are coupled with an interest and shall be irrevocable).
- (j) The generality of the provisions of this Section 17.4. relating to the Lease shall not be limited by other provisions of this Mortgage setting forth particular obligations of Mortgagor which are also required of Mortgagor as the lessee under the Lease.
- (k) Unless Mortgagee shall otherwise consent in writing, so long as any of the payment Obligations remain unpaid, neither the fee title to the Land nor any other estate, title or interest in the Land shall merge with the leasehold estate under the Lease but shall always be kept separate and distinct therefrom, notwithstanding the union of such estates either in the lessor or the lessee under the Lease or in a third party, by purchase or otherwise.
- (l) Mortgagor shall not subordinate the Lease or the leasehold created by the Lease to any mortgage, Mortgage or other encumbrance of, or lien on, any interest in the real property subject to the Lease without the prior written consent of Mortgagee, which consent shall not be withheld if such subordination is required under the Lease and is otherwise in the form contemplated by the Lease, if any; provided however, if the form of subordination agreement

is not specified in the Lease, then Mortgagee shall have the right to review and approve such subordination, which approval shall not be unreasonably withheld, delayed or conditioned. Any such subordination without such consent shall, at Mortgagee's option, be void.

- (m) Mortgagor hereby assigns to Mortgagee a security interest in all prepaid rents and security deposits and all other security which the landlords under the Lease hold for the performance of Mortgagor's obligation's thereunder.
- (n) To the extent permitted by law, the price payable by Mortgagor or any other party in the exercise of the right of redemption, if any, from any sale under, or decree of foreclosure of, this Mortgage, shall include all rents and other amounts paid and other sums advanced by Mortgagor on behalf of Mortgagor as the tenant under the Lease.
- (o) Mortgagor shall not, without Mortgagee's prior written consent, (i) surrender, terminate, forfeit, or suffer or permit the surrender, termination or forfeiture of (except for the expiration of the term of the Lease in accordance with its express terms and not the result of any default or affirmative election by Mortgagor), or (ii) supplement, modify or amend in any materially adverse manner, the Lease or any rights relating to the Lease or any other portion of the Mortgaged Property, or waive any right, title or interest relating thereto. Any acquisition of the lessor's interest in the Lease by Mortgagor or any affiliate of Mortgagor will be accomplished by Mortgagor in such a manner so as to avoid a merger of the interests of lessor and lessee in the Lease. If Mortgagor (or any of its successors or assigns) shall acquire fee title to the Land, this Mortgage shall automatically be a lien on ttle fee title.
- (p) As used herein, "11 Bankruptcy Code" shall mean 11 U.S.C. §§ 101 et seq., as modified or recodified from time to time. Notwithstanding anything to the contrary herein contained herein with respect to the Lease.
 - a. The lien of this Mortgage attaches to all of 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 Land and any improvements located thereon.
 - b. Mortgagor shall not, without Mortgagee's prior written consent, elect to treat the Lease as terminated under Subsection 365(h) of the Bankruptcy Code (and upon rejection of the Lease under Section 365 of the Bankruptcy Code, Mortgagor shall remain in possession of the Land and any improvements located thereon to the full extent permitted by law). Any such election made without Mortgagee's prior written consent shall be void.
 - c. As additional security for the Obligations, Mortgagor hereby unconditionally assigns, transfers and sets over to Mortgagee all of Mortgagor's claims and rights to the payment of damages arising from any rejection of the Lease by the lessor under the Bankruptcy Code. Mortgagee and Mortgagor shall proceed jointly or in the name of Mortgagor in respect of any claim, suit, action or proceeding relating to the rejection of the Lease including, without limitation, the right to file and prosecute any proofs of claims, complaints, motions, applications, notices and other documents in any case in respect of the lessor under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Obligations have been satisfied and

discharged in full. Any amounts received by Mortgagee or Mortgagor as damages arising out of the rejection of the Lease as aforesaid shall be applied first to all costs and expenses of Mortgagee (including, without limitation, attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this Section and then in accordance with the other applicable section(s) of this Mortgage.

- d. If, pursuant to Subsection 365(h) of the Bankruptcy Code, Mortgagor seeks to offset, against the rent reserved in the Lease, the amount of any damages caused by the nonperformance by the lessor thereunder of any of such lessor's obligations under such Lease after the rejection by lessor of such Lease under the Bankruptcy Code, Mortgagor shall, prior to effecting such offset, notify Mortgagee in writing of its intent to so do, setting forth the amounts proposed to be offset and, in the event of Mortgagee's objection received within ten (10) Business Days after notice from Mortgagor, Mortgagor shall not affect any offset of the amounts so objected to by Mortgagee.
- e. If any action, proceeding, motion or notice shall be commenced or filed in respect of the lessor of all or any part of the Lease in connection with any case under Subsection 365(h) of the Bankruptcy Code, Mortgagor and Mortgagee shall cooperatively conduct and control any such litigation with counsel agreed upon between Mortgagor and Mortgagee in connection with such litigation; provided, however, if an Event of Default exists and is continuing, Mortgagee shall have the option, to the exclusion of Mortgagor, exercisable upon notice from Mortgagee to Mortgagor, to conduct and control any such litigation with counsel of Mortgagee's choice and Mortgagee may proceed in its own name or in the name of Mortgagor, in such latter case, Mortgagor agreeing to execute any and all powers, authorizations, consents and other documents required by Mortgagee in connection therewith. Mortgagor shall, upon demand, pay to Mortgagee all reasonable costs and expenses (including reasonable attorneys' fees and costs) actually paid or actually incurred by Mortgagee in connection with the cooperative prosecution or conduct of any such proceedings. All such costs and expenses shall be secured by the lien of this Mortgage.
- f. After receiving notice of any filing by or against the lessor under the Lease of a petition under the Bankruptcy Code, Mortgagor shall promptly give written notice thereof to Mortgagee, setting forth any information available to Mortgagor as to the date of such filing, the court in which such petition was filed, and the relief sought therein. Mortgagor shall promptly deliver to Mortgagee, following its receipt thereof, any and all notices, summonses, pleadings, applications and other documents received by Mortgagor in connection with any such petition and any proceedings relating thereto.
- g. Effective upon the entry of an order for relief in respect of Mortgagor under the Bankruptcy Code, Mortgagor hereby assigns and transfers to Mortgagee a nonexclusive right to apply to the Bankruptcy Court under Subsection 365(d) (1) and/or Subsection 365(d) (4) {as applicable) of the Bankruptcy Code for an order extending the period during which the Lease may be rejected or assumed.
- h. The foregoing references to specific provisions of the Bankruptcy Code shall also be deemed to include any similar present or future laws containing similar provisions or granting similar rights.

Section 16.5 NO RELEASE. No release or forbearance of any of Mortgagor's obligations under the Lease, pursuant to the Lease or otherwise, shall release Mortgagor from any of its obligations under this Mortgage, including its obligations with respect to the payment of rent as provided for in the Lease and the performance of all of the terms, provisions, covenants, conditions and agreements contained in the Lease, to be kept, performed and complied with by the lessee under the Lease.

ARTICLE 17 - WAIVER OF JURY TRIAL

Section 17.1 WAIVER OF JURY TRIAL. **MORTGAGOR AND MORTGAGEE, JOINTLY AND SEVERALLY, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER 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 AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS, WHETHER VERBAL OR WRITTEN, OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE MORTGAGEE ACCEPTING THIS MORTGAGE FROM MORTGAGOR.**

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, THIS SECURITY INSTRUMENT has been executed by Borrower the day and year first above written.

Signed, sealed and delivered in the presence of:

Jessica Carter
Name:

Address: 120 Ranchette Trail
Palatka, FL 32177

M. B. Wt.
Name:

Address: 109 Low Dot Trail
Palatka, FL 32177

MORTGAGOR:

VIKINGART, INC., a Florida corporation

By: [Signature]
Preston B. Sloan
Its: President

By: [Signature]
Bradley C. Sloan
Its: Vice President and Secretary

STATE OF FLORIDA)
COUNTY OF Putnam)

The foregoing instrument was acknowledged before me by means of physical presence this 20th day of September, 2024, by **Preston B. Sloan** and **Bradley C. Sloan**, as President, Vice President and Secretary of **VIKINGART, INC.**, a Florida corporation, on behalf of the corporation, who (check one) are personally known to me have produced valid drivers' licenses as identification.

Jessica Carter
Notary Public, State of Florida
My Commission Expires: 6-26-26

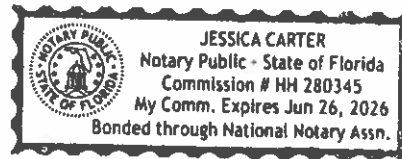


EXHIBIT A
(Description of Land)

Parent Parcel: 10-10-26-0000-0010-0000

Parent OR Book-247. Pg-628

Parcel A

LEASE PARCEL

A PORTION OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST, PUTNAM COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST; THENCE S00°45'35"E ALONG THE EAST LINE OF SAID NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST 177.07 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF ST. JOHNS AVENUE; THENCE S89°14'25"W, ALONG LAST SAID LINE, 50.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SOUTH MOODY ROAD; THENCE S00°45'35"E, 1041.13 FEET; THENCE S89°14'25"W, 522.06 FEET A POINT ON A LINE LYING 1.00 FEET OUTSIDE THE FACE OF A PROPOSED BUILDING AND THE POINT OF BEGINNING. THENCE ALONG AND AROUND SAID LINE LYING 1.00 FEET OUTSIDE THE FACE OF SAID PROPOSED BUILDING, RUN THE FOLLOWING THIRTY-SIX (36) COURSES AND DISTANCES:

(1) S00°00'00"E, 28.05 FEET; (2) N90°00'00"W, 8.08 FEET; (3) S00°00'00"E, 138.44 FEET; (4) N90°00'00"E, 8.15 FEET; (5) S00°00'00"E, 22.51 FEET; (6) N90°00'00"W, 15.81 FEET; (7) S00°00'00"E, 19.47 FEET; (8) S45°00'00"E, 2.71 FEET; (9) S45°00'00"W, 15.30 FEET; (10) S45°00'03"E, 29.39 FEET; (11) S45°00'00"W, 17.33 FEET; (12) N45°00'03"W, 29.39 FEET; (13) S45°00'00"W, 15.30 FEET; (14) N45°00'00"W, 2.71 FEET; (15) N90°00'00"W, 18.43 FEET; (16) S00°00'00"E, 15.81 FEET; (17) N90°00'00"W, 24.52 FEET; (18) N00°00'00"E, 8.10 FEET; (19) N90°00'00"W, 137.47 FEET; (20) S00°00'00"E, 8.08 FEET; (21) N90°00'00"W, 24.97 FEET; (22) N00°00'00"E, 16.30 FEET; (23) N90°00'00"E, 7.08 FEET; (24) N00°00'00"E, 47.11 FEET; (25) N90°00'00"E, 130.17 FEET; (26) N00°00'00"E, 10.58 FEET; (27) S89°51'13"E, 27.82 FEET; (28) S45°00'00"E, 22.30 FEET; (29) N45°00'00"E, 22.67 FEET; (30) N45°00'00"W, 18.89 FEET; (31) N00°02'29"E, 16.90 FEET; (32) N90°00'00"E, 8.08 FEET; (33) N00°00'00"E, 143.50 FEET; (34) N90°00'00"E, 47.11 FEET; (35) N00°00'00"E, 10.17 FEET; (36) N90°00'00"E, 16.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.55 ACRES, MORE OR LESS.

Together with Easement Parcel, as more particularly described on the next page:



EASEMENT PARCEL

A TEN-FOOT-WIDE EASEMENT, LYING IN AND BEING A PORTION OF THE NORTHEAST 1/ 4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST, PUTNAM COUNTY, FLORIDA, LYING 10.0 FEET RIGHT OF. WHEN MEASURED AT RIGHT ANGLES AND PERPENDICULAR THE FOLLOWING DESCRIBED LINE:

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CONTAINING 0.26 ACRES, MORE OR LESS

Prepared By and Return To:

Charles R. Wood, Esq.
First Coast Law Group, PLLC
12428 San Jose Blvd., Ste 1
Jacksonville, Florida 32223

FL-240618

MEMORANDUM OF GROUND LEASE

Portion of 10-10-26-0000-0010-0000

THIS MEMORANDUM OF GROUND LEASE is made by and between **THE DISTRICT BOARD OF TRUSTEES OF ST. JOHNS RIVER STATE COLLEGE**, a political subdivision of the State of Florida (“**Landlord**”), and **ST. JOHNS RIVER STATE COLLEGE STUDENT HOUSING CORPORATION**, a Florida not for profit corporation (“**Tenant**”), to evidence the following terms of that certain **Amended Ground Lease Agreement** (“**Lease**”) by and between the parties hereto.

1. Date of Lease. The Lease is dated effective as of August 29, 2024 (the “Effective Date”).
2. Description of Premises. See **Exhibit “A”** attached hereto.
3. Term. The Term shall be from the Effective Date through **JUNE 30, 2065**, as both are defined and set forth in the Lease.

The purpose of this Memorandum of Lease is to give record notice of the Lease and of the rights created thereby, all of which are hereby confirmed. This Memorandum of Lease is for information purposes only and nothing contained herein shall be deemed to in any way modify or otherwise affect any of the terms and conditions of the Lease, the terms of which are incorporated herein by reference. This instrument is merely a Memorandum of the Lease and is subject to all of the terms, provisions and conditions of the Lease. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail. The rights and obligations set forth herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

(signature pages follow)



IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of this 18th day of September, 2024.

Signed, sealed and delivered in the presence of:

“Landlord”

THE DISTRICT BOARD OF TRUSTEES OF ST. JOHNS RIVER STATE COLLEGE, a political subdivision of the State of Florida

Susan M. Sutliff
Name:

Address: 5001 St. Johns Ave.
Palatka FL 32177

By: [Signature]
Name: R. KOMANDO
Title: CHAIR

Melanie B.
Name: MELANIE BROWN

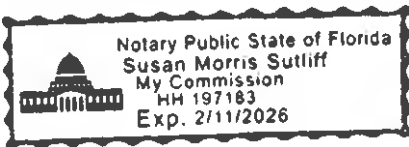
Address: 5001 St. Johns Ave.
Palatka FL 32177

STATE OF FLORIDA

COUNTY OF Putnam

This instrument was acknowledged before me by means of: [] physical presence or [] online notarization; on this 18th day of September, 2024, by Rich Komando, as duly Chair of **THE DISTRICT BOARD OF TRUSTEES OF ST. JOHNS RIVER STATE COLLEGE**, a political subdivision of the State of Florida, who is personally known to me or has produced _____ as identification.

Susan Morris Sutliff
Notary Public, State of Florida
My Commission Expires: 02/11/2026



Signed, sealed and delivered in the presence of:

Susan M. Suttiff
Name: Susan M. Suttiff

Address: 5001 St. Johns Ave.
Palatka FL 32177

Kara McKinley
Name: Kara McKinley

Address: 126 Odom Rd.
Palatka, FL 32177

“Tenant”

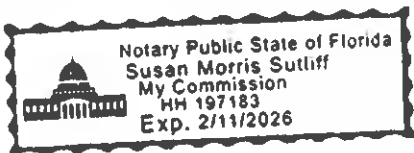
**ST. JOHNS RIVER STATE COLLEGE
STUDENT HOUSING CORPORATION,**
a Florida not for profit corporation

By: [Signature]
Name: Joe H. Pickens
Title: President / Board member

STATE OF FLORIDA

COUNTY OF Putnam

This instrument was acknowledged before me by means of: physical presence or [] online notarization; on this 19th day of September, 2024, by Joe H. Pickens, as duly President / Board Member of **ST. JOHNS RIVER STATE COLLEGE STUDENT HOUSING CORPORATION**, a Florida not for profit corporation, who is personally known to me or _____ has produced _____ as identification.



Susan Morris Suttiff
Notary Public, State of Florida
My Commission Expires: 02/11/2026

EXHIBIT A
(Legal Description of Premises)

Parent Parcel: 10-10-26-0000-0010-0000

Parent OR Book-247, Pg-628

Parcel A

LEASE PARCEL

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CONTAINING 0.26 ACRES, MORE OR LESS

This instrument was prepared by:

Charles R. Wood, Esq.
First Coast Law Group, PLLC
12428 San Jose Blvd., Ste 1
Jacksonville, Florida 32223

LANDLORD'S WAIVER AND CONSENT

TO: BARWICK BANKING COMPANY, its successors and/or assigns
2020 E. Main Street
Barwick, Georgia 31720
(hereinafter, "Secured Party")

RE: VIKINGART, INC.
2000 Reid Street
Palatka, FL 32177
(hereinafter, "Tenant")

WHEREAS, pursuant to that Amended Ground Sublease Agreement dated August 29, 2024, between **St. Johns River State College Student Housing Corporation**, a Florida not for profit corporation, as Landlord, and **VIKINGART, INC.**, a Florida corporation, as Tenant, Landlord has leased to Tenant the premises (hereinafter, the "Premises") more particularly described in **Exhibit "A"** attached hereto and made a part hereof.

WHEREAS, Tenant desires to obtain an extension of credit from Secured Party, and Secured Party desires to extend credit to Tenant (the "Loan"); and

WHEREAS, Secured Party intends to acquire or has acquired a security interest in and upon the following described personal property (hereinafter, the "Collateral"):

See Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, the Collateral is now or is to be located upon, and is now or may be affixed to, the Premises; and

WHEREAS, the undersigned claims or may claim an interest in the Collateral as owner of the leasehold interest in the Premises, Landlord, or otherwise;

WHEREAS, Secured Party is willing to extend such credit to Tenant only in the event the undersigned subordinates any interest which it now has or may hereafter acquire in and to the Collateral to the liens of the Secured Party for the Loan, and further agrees and acknowledges as provided herein; and

WHEREAS, it is understood that Secured Party intends to rely on this Agreement in extending credit to Debtor;

NOW THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, the undersigned hereby acknowledges and agrees as follows:

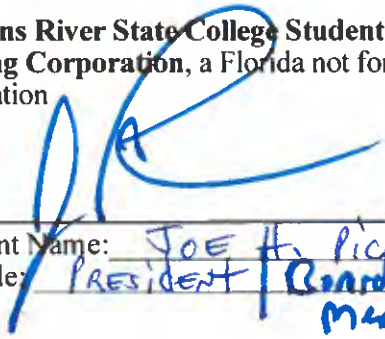
1. Landlord agrees to and hereby waives any and all liens, security interests, claims, demands or other rights which it may now have or may hereafter acquire in or upon the Collateral to the liens of the Secured Party for the Loan.
2. Landlord agrees to give 90-day written notice to Secured Party in the event of a default by the Tenant under the terms of the Lease, and Secured Party shall have the right to cure any occurrence of default.
3. Landlord agrees to and will grant the Secured Party access to the leased premises to facilitate the liquidation of the Collateral. Secured Party shall have the right to remove any and all assets which secure the loan, so long as Secured Party repairs all damage caused by the removal of such assets.
4. Landlord agrees to and consents to the location, installation and/or affixation of the Collateral in, upon and to the Premises, and subordinates Landlord's rights of levy, lien and distraint for rent to the liens of the Secured Party for the Loan, and agrees that the Collateral is severed from and shall not be or become a part of the Premises and shall remain personal property, and that Secured Party may repossess the Collateral or otherwise enforce its rights against the Collateral at any time.
5. Secured Party and Landlord agree that so long as Secured Party has not entered into possession of the premises for the purpose of operating the business, Secured Party shall not be liable for rent or other obligations of Debtor to Landlord and further, that Debtor shall remain liable for rent and all such other obligations to Landlord.
6. Undersigned hereby expresses its intention to be legally bound by this Agreement and acknowledges receipt of benefit therefrom.

WITNESS WHEREOF, undersigned has caused this Agreement to be executed and delivered to and in favor of Secured Party, its Successors and Assigns, on this 19th day of SEPTEMBER 2024.

LANDLORD SIGNATURE TO FOLLOW ON THE SUBSEQUENT PAGE

LANDLORD:

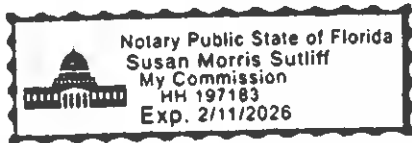
St. Johns River State College Student Housing Corporation, a Florida not for profit corporation

By: 
Print Name: JOE H. PICKENS
Title: PRESIDENT / Board Member

STATE OF FLORIDA

COUNTY OF Putnam

This instrument was acknowledged before me by means of: physical presence or [] online notarization; on this 19th day of September, 2024, by JOE H. PICKENS, as duly PRESIDENT / Board Member of **St. Johns River State College Student Housing Corporation**, a Florida not for profit corporation, who is personally known to me or _____ has produced _____ as identification.



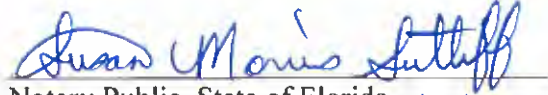

Notary Public, State of Florida
My Commission Expires: 02/11/2026

EXHIBIT A

LEGAL DESCRIPTION

Parent Parcel: 10-10-26-0000-0010-0000

Parent OR Book-247, Pg-628

Parcel A

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EASEMENT PARCEL

A TEN-FOOT-WIDE EASEMENT, LYING IN AND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST, PUTNAM COUNTY, FLORIDA, LYING 10.0 FEET RIGHT OF, WHEN MEASURED AT RIGHT ANGLES AND PERPENDICULAR THE FOLLOWING DESCRIBED LINE:

COMMENCE AT THE NORTHEAST CORNER OF SAID NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST; THENCE S00°45'35"E, ALONG THE EAST LINE OF SAID NORTHEAST 1/4 OF SECTION 10 TOWNSHIP 10 SOUTH, RANGE 26 EAST 177.07 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF ST. JOHNS AVENUE; THENCE S89°14'25"W, ALONG LAST SAID LINE, 50.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SOUTH MOODY ROAD; THENCE S00°45'35"E, 1032.25 FEET; THENCE S89°14'25"W, 512.95 FEET TO A POINT ON A LINE LYING 10.00 FEET OUTSIDE THE FACE OF A PROPOSED BUILDING AND THE POINT OF BEGINNING; THENCE ALONG AND AROUND SAID LINE LYING 10.00 FEET OUTSIDE THE FACE OF SAID PROPOSED BUILDING, RUN THE FOLLOWING THIRTY-FOUR (34) COURSES AND DISTANCES:

(1) S00°00'00"E, 46.05 FEET; (2) N90°00'00"W, 8.08 FEET; (3) S00°00'00"E, 120.44 FEET; (4) N90°00'00"E, 8.15 FEET; (5) S00°00'00"E, 40.51 FEET; (6) N90°00'00"W, 15.81 FEET; (7) S00°00'00"E, 6.74 FEET; (8) S45°00'00"E, 7.98 FEET; (9) S45°00'00"W, 15.30 FEET; (10) S45°00'03"E, 29.39 FEET; (11) S45°00'00"W, 35.33 FEET; (12) N45°00'03"W, 29.39 FEET; (13) S45°00'00"W, 15.30 FEET; (14) N45°00'00"W, 7.98 FEET; (15) N90°00'00"W, 5.70 FEET; (16) S00°00'00"E, 15.81 FEET; (17) N90°00'00"W, 42.52 FEET; (18) N00°00'00"E, 8.15 FEET; (19) N90°00'00"W, 119.47 FEET; (20) S00°00'00"E, 8.08 FEET; (21) N90°00'00"W, 42.97 FEET; (22) N00°00'00"E, 34.30 FEET; (23) N90°00'00"E, 7.08 FEET; (24) N00°00'00"E, 47.11 FEET; (25) N90°00'00"E, 130.17 FEET; (26) N00°00'00"E, 10.61 FEET; (27) S89°51'13"E, 40.97 FEET; (28) N90°00'00"E, 5.31 FEET; (29) N00°00'00"E, 30.52 FEET; (30) N90°00'00"E, 8.08 FEET; (31) N00°00'00"E, 143.50 FEET; (32) N90°00'00"E, 47.11 FEET; (33) N00°00'00"E, 10.17 FEET; (34) N90°00'00"E, 34.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.26 ACRES, MORE OR LESS

EXHIBIT B

COLLATERAL DESCRIPTION

All Assets. All accounts, as-extracted collateral, cash proceeds, chattel paper, commercial tort claims, deposit accounts, documents, equipment, farm products, fixtures, furniture, financial assets, general intangibles, goods, instruments, inventory, investment property, letter of credit rights, letters of credit, money, non-cash proceeds, proceeds, software, supporting obligations and other personal property, both now existing and hereafter existing, acquired and arising, owned by Debtor and in which Debtor has any property rights and benefits, of whatsoever kind and description, wherever located and inclusive of property in Debtor's constructive possession and control, property in the Debtor's actual possession and control and property in the possession and control of a third person for and on behalf of Debtor.

Prepared By and Return To:

Charles R. Wood, Esq.
First Coast Law Group, PLLC
12428 San Jose Blvd., Ste 1
Jacksonville, Florida 32223

FL-240618

MEMORANDUM OF LEASE

Portion of 10-10-26-0000-0010-0000

THIS MEMORANDUM OF LEASE is made by and between **ST. JOHNS RIVER STATE COLLEGE STUDENT HOUSING CORPORATION**, a Florida not for profit corporation (“**Landlord**”), and **VIKINGART, INC.**, a Florida corporation (“**Tenant**”), to evidence the following terms of that certain **Amended Ground Sublease Agreement** (“**Lease**”) by and between the parties hereto.

1. Date of Lease. The Lease is dated effective as of August 29, 2024 (the “Effective Date”).
2. Description of Premises. See Exhibit “A” attached hereto.
3. Term. The Term shall be from the Effective Date through June 30th of the fortieth (40th) full Annual Period after the Substantial Completion Date occurs, as both are defined and set forth in the Lease.

The purpose of this Memorandum of Lease is to give record notice of the Lease and of the rights created thereby, all of which are hereby confirmed. This Memorandum of Lease is for information purposes only and nothing contained herein shall be deemed to in any way modify or otherwise affect any of the terms and conditions of the Lease, the terms of which are incorporated herein by reference. This instrument is merely a Memorandum of the Lease and is subject to all of the terms, provisions and conditions of the Lease. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail. The rights and obligations set forth herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

(signature pages follow)

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of this 19th day of September, 2024.

Signed, sealed and delivered in the presence of:

Susan M. Suttiff
Name: SUSAN M. SUTTIFF
Address: 5001 St. Johns Ave.
Palatka FL 32177

Kara McKinley
Name: Kara McKinley
Address: 126 Odom Rd.
Palatka, FL 32177

“Landlord”

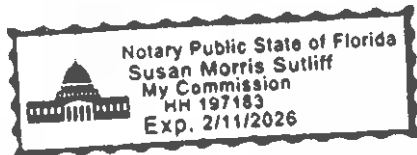
ST. JOHNS RIVER STATE COLLEGE STUDENT HOUSING CORPORATION, a Florida not for profit corporation

By: [Signature]
Name: Joe H. Pickens
Title: Pres. (Part) Board Member

STATE OF FLORIDA

COUNTY OF POTNAM

This instrument was acknowledged before me by means of: physical presence or [] online notarization; on this 19th day of September, 2024, by Joe H. Pickens, as duly President/Board Member of **ST. JOHNS RIVER STATE COLLEGE STUDENT HOUSING CORPORATION**, a Florida not for profit corporation, who is personally known to me or has produced _____ as identification.



Susan Morris Suttiff
Notary Public, State of Florida
My Commission Expires: 02/11/2026

Signed, sealed and delivered in the presence of:

Jessica Carter

Name:

Address: 126 Ranchette Trail

Palatka, FL 32177

M. W. H.

Name:

Address: 109 Lone Oak Trail

Palatka, FL 32177

“Tenant”

VIKINGART, INC., a Florida corporation

By: [Signature]

Preston B. Sloan

Its: President

By: [Signature]

Bradley C. Sloan

Its: Vice President and Secretary

STATE OF FLORIDA

COUNTY OF Putnam

This instrument was acknowledged before me by means of: physical presence or [] online notarization; on this 20th day of September, 2024, by **Preston B. Sloan** and **Bradley C. Sloan**, as President, Vice President and Secretary of **VIKINGART, INC.**, a Florida corporation, who are personally known to me have produced valid drivers' licenses as identification.

Jessica Carter
Notary Public, State of Florida
My Commission Expires: 6-26-2026

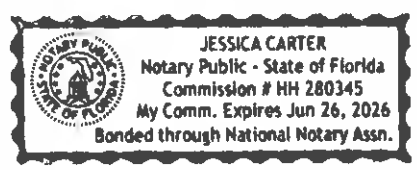


EXHIBIT A
(Legal Description of Premises)

Parent Parcel: 10-10-26-0000-0010-0000

Parent OR Book-247, Pg-628

Parcel A

LEASE PARCEL

A PORTION OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST, PUTNAM COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST; THENCE S00°45'35"E, ALONG THE EAST LINE OF SAID NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST 177.07 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF ST. JOHNS AVENUE; THENCE S89°14'25"W, ALONG SAID LINE, 50.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SOUTH MOODY ROAD; THENCE S00°45'35"E, 1041.13 FEET; THENCE S89°14'25"W, 522.06 FEET A POINT ON A LINE LYING 1.00 FEET OUTSIDE THE FACE OF A PROPOSED BUILDING AND THE POINT OF BEGINNING; THENCE ALONG AND AROUND SAID LINE LYING 1.00 FEET OUTSIDE THE FACE OF SAID PROPOSED BUILDING, RUN THE FOLLOWING THIRTY-SIX (36) COURSES AND DISTANCES:

(1) S00°00'00"E, 28.05 FEET; (2) N90°00'00"W, 8.08 FEET; (3) S00°00'00"E, 138.44 FEET; (4) N90°00'00"E, 8.15 FEET; (5) S00°00'00"E, 22.51 FEET; (6) N90°00'00"W, 15.81 FEET; (7) S00°00'00"E, 19.47 FEET; (8) S45°00'00"E, 2.71 FEET; (9) S45°00'00"W, 15.30 FEET; (10) S45°00'03"E, 29.39 FEET; (11) S45°00'00"W, 17.33 FEET; (12) N45°00'03"W, 29.39 FEET; (13) S45°00'00"W, 15.30 FEET; (14) N45°00'00"W, 2.71 FEET; (15) N90°00'00"W, 18.43 FEET; (16) S00°00'00"E, 15.81 FEET; (17) N90°00'00"W, 24.52 FEET; (18) N00°00'00"E, 8.10 FEET; (19) N90°00'00"W, 137.47 FEET; (20) S00°00'00"E, 8.08 FEET; (21) N90°00'00"W, 24.97 FEET; (22) N00°00'00"E, 16.30 FEET; (23) N90°00'00"E, 7.08 FEET; (24) N00°00'00"E, 47.11 FEET; (25) N90°00'00"E, 130.17 FEET; (26) N00°00'00"E, 10.58 FEET; (27) S89°51'13"E, 27.82 FEET; (28) S45°00'00"E, 22.30 FEET; (29) N45°00'00"E, 22.67 FEET; (30) N45°00'00"W, 18.89 FEET; (31) N00°02'29"E, 16.90 FEET; (32) N90°00'00"E, 8.08 FEET; (33) N00°00'00"E, 143.50 FEET; (34) N90°00'00"E, 47.11 FEET; (35) N00°00'00"E, 10.17 FEET; (36) N90°00'00"E, 16.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.55 ACRES, MORE OR LESS.

Together with Easement Parcel, as more particularly described on the next page:

EASEMENT PARCEL

A TEN-FOOT-WIDE EASEMENT, LYING IN AND BEING A PORTION OF THE NORTHEAST 1/ 4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST, PUTNAM COUNTY, FLORIDA, LYING 10.0 FEET RIGHT OF, WHEN MEASURED AT RIGHT ANGLES AND PERPENDICULAR THE FOLLOWING DESCRIBED LINE:

COMMENCE AT THE NORTHEAST CORNER OF SAID NORTHEAST 1/ 4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST, THENCE S00°45'35"E, ALONG THE EAST LINE OF SAID NORTHEAST 1/ 4 OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 26 EAST 177.07 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF ST. JOHNS AVENUE; THENCE S89°14'25"W , ALONG LAST SAID LINE, 50.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SOUTH MOODY ROAD; THENCE S00°45'35"E, 1032.25' FEET; THENCE S89°14'25"W, 512.95 FEET TO A POINT ON A LINE LYING 10.00 FEET OUTSIDE THE FACE OF A PROPOSED BUILDING AND THE POINT OF BEGINNING; THENCE ALONG AND AROUND SAID LINE LYING 10.00 FEET OUTSIDE THE FACE OF SAID PROPOSED BUILDING , RUN THE FOLLOWING THIRTY-FOUR (34) COURSES AND DISTANCES:

(1) S00°00'00"E, 46.05 FEET; (2) N90°00'00"W, 8.08 FEET; (3) S00°00'00"E, 120.44 FEET; (4) N90°00'00"E, 8.15 FEET; (5) S00°00'00"E, 40.51 FEET; (6) N90°00'00"W, 15.81 FEET; (7) S00°00'00"E, 6.74 FEET; (8) S45°00'00"E, 7.98 FEET; (9) S45°00'00"W, 15.30 FEET; (10) S45°00'03"E, 29.39 FEET; (11) S45°00'00"W, 35.33 FEET; (12) N45°00'03"W, 29.39 FEET; (13) S45°00'00"W, 15.30 FEET; (14) N45°00'00"W, 7.98 FEET; (15) N90°00'00"W, 5.70 FEET; (16) S00°00'00"E, 15.81 FEET; (17) N90°00'00"W, 42.52 FEET; (18) N00°00'00"E, 8.15 FEET; (19) N90°00'00"W, 119.47 FEET; (20) S00°00'00"E, 8.08 FEET; (21) N90°00'00"W, 42.97 FEET; (22) N00°00'00"E, 34.30 FEET; (23) N90°00'00"E, 7.08 FEET; (24) N00°00'00"E, 47.11 FEET; (25) N90°00'00"E, 130.17 FEET; (26) N00°00'00"E, 10.61 FEET; (27) S89°51'13"E, 40.97 FEET; (28) N90°00'00"E, 5.31 FEET; (29) N00°00'00"E, 30.52 FEET; (30) N90°00'00"E, 8.08 FEET; (31) N00°00'00"E, 143.50 FEET; (32) N90°00'00"E, 47.11 FEET; (33) N00°00'00"E, 10.17 FEET; (34) N90°00'00"E, 34.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.26 ACRES, MORE OR LESS