

CYNTHIA B FORTE  
BERKELEY COUNTY  
REGISTER OF DEEDS

Po Box 6122 ~ Moncks Corner, SC 29461 (843) 719-4084

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**\*\*\* THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE \*\*\***

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**\*\*\* ELECTRONICALLY RECORDED DOCUMENT \*\*\***

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Instrument #:	2020028821	
Receipt Number:	174705	Return To:
Recorded As:	EREC-MORTGAGE	
Recorded On:	August 04, 2020	
Recorded At:	09:21:09 AM	Received From: SIMPLIFILE
Recorded By:	ROBIN MCMAKIN	Parties:
Book/Page:	RB 3449: 121 - 145	Direct- WELLMORE OF DANIEL ISLAND PROPCO LLC
Total Pages:	25	Indirect- TRUIST BANK

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**\*\*\* EXAMINED AND CHARGED AS FOLLOWS \*\*\***

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Recording Fee: \$25.00  
Tax Charge: \$0.00



*Cynthia B. Forte*  
Cynthia B Forte - Register of Deeds

**When Recorded Return to:**

Moore & Van Allen PLLC  
 100 N. Tryon Street, Suite 4700  
 Charlotte, NC 28202  
 Attn: Gregory Faltin

This document serves as a Fixture Filing under Section 9-502 of the South Carolina Uniform Commercial Code and is to be filed in the real property records.

**MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT  
 AND FIXTURE FILING**

**MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING** dated July 31, 2020 (together with any amendments or modifications hereto in effect from time to time, the “**Security Instrument**”), between **WELLMORE OF DANIEL ISLAND PROPCO, LLC**, a Delaware limited liability company, having an office at 3530 Toringdon Way, Suite 204, Charlotte, North Carolina 28277 (“**Mortgagor**”) in favor of **TRUIST BANK**, a North Carolina banking corporation, as Administrative Agent (in such capacity, and together with any successor Administrative Agent under the Loan Agreement (as hereinafter defined), hereinafter called “**Administrative Agent**”), for the ratable benefit of itself and the financial institutions a party to the Loan Agreement from time to time (collectively, the “**Lenders**”), a grantee for purposes of indexing, having an address at Truist Bank, Agency Services, 303 Peachtree Street, N.E., 25th Floor, Atlanta, Georgia 30308, Attention: Agency Services Manager.

**WITNESSETH:**

A. This Security Instrument is given to secure certain loans (collectively, the “**Loan**”) in the aggregate principal sum of THIRTY-SEVEN MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$37,100,000.00) or so much thereof as may be advanced pursuant to that certain Loan Agreement dated as of the date hereof among Mortgagor, Administrative Agent, and the Lenders (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”) and evidenced by that certain Promissory Note dated as of the date hereof made payable by Mortgagor to the Lenders pursuant to the terms of the Loan Agreement (such promissory note, together with all extensions, renewals, replacements, restatements or modifications thereof being hereinafter collectively referred to as the “**Note**”), and having a maturity date of July 31, 2024. It is acknowledged, however, that the maturity date of the Loan will, subject to certain conditions set forth the Loan Agreement, be extended to a date not later than December 31, 2024. Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

B. Mortgagor desires to secure the payment of the outstanding principal amount of the Loan together with all interest, including without limitation deferred, accrued or capitalized and unpaid thereon and all other sums due to the Lenders in respect of the Loan and the Loan Documents and including all borrowings and re-borrowings of Mortgagor to the extent provided in the Loan Documents (the “**Debt**”) and the payment and performance of all other Obligations (as defined in the Loan Agreement), as provided in Article II hereof.

C. This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Mortgagor of its obligations thereunder and under the other Loan Documents are secured hereby.

**NOW THEREFORE**, in consideration of the making of the Loan by the Lenders and the covenants, agreements, representations and warranties set forth in this Security Instrument:

## **ARTICLE I. GRANTING CLAUSES**

Section 1.1 Property Conveyed. Mortgagor has granted and conveyed and by these presents DOES HEREBY GRANT, BARGAIN, SELL, CONVEY, TRANSFER AND ASSIGN TO ADMINISTRATIVE AGENT FOR THE BENEFIT OF THE LENDERS, THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, in fee simple, with right of entry and possession, all of Mortgagor's estate, right, title and interest now owned or hereafter acquired in and to each of the following (collectively, the **"Property"**):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "Land");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Mortgagor 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, 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 owned by Mortgagor now or hereafter erected or located on the Land (collectively, 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 the Improvements and the reversion and reversions, and remainder and remainders thereof, 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 Mortgagor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code, as adopted and enacted by the State of South Carolina (the **"Uniform Commercial Code"**), now owned or hereafter acquired by Mortgagor, which is used at or in connection with the Improvements or the Land and is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, electronic data-processing and other office equipment, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Mortgagor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply,

water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, Equipment shall not include any property belonging to Tenants under Leases (as hereinafter defined) except to the extent that Mortgagor shall have any right or interest therein;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Mortgagor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land (collectively, the "**Fixtures**"). Notwithstanding the foregoing, "Fixtures" shall not include any property which Tenants are entitled to remove pursuant to Leases except to the extent that Mortgagor shall have any right or interest therein;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, interest rate hedging agreements, and, to the extent assignable: (i) licenses, (ii) certificates and (iii) permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code), whether tangible or intangible, other than Fixtures, which are now or hereafter owned by Mortgagor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title and interest of Mortgagor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, superior in lien to the lien of this Security Instrument and all proceeds and products of any of the above;

(h) Leases and Rents. All leases and other agreements affecting the use, enjoyment or occupancy of the Land and the Improvements heretofore or hereafter entered into, whether before or after the filing by or against Mortgagor of any petition for relief under 11 U.S.C. §101 *et seq.*, as the same may be amended from time to time (the "**Bankruptcy Code**") (collectively, the "**Leases**") and all right, title and interest of Mortgagor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, royalties, issues, profits, income, revenues and other benefits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code (collectively, the "**Rents**") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment and performance of the Obligations, including the payment of the Debt, as provided herein;

(i) 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 such right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(j) Insurance Proceeds. All proceeds in respect of the Property under 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, as provided in the Loan Agreement;

(k) Tax Certiorari. Mortgagor's interest in all refunds, rebates or credits in connection with any reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari proceedings or any other applications or proceedings for reduction of same, in each case, irrespective of the time period to which they relate;

(l) Rights. The right, in the name and on behalf of Mortgagor, 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 the Lenders in the Property;

(m) Agreements. To the extent assignable, 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 Mortgagor therein and thereunder, including, without limitation, the right to receive and collect any sums payable to Mortgagor thereunder;

(n) Trademarks. All tradenames, 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;

(o) Accounts. All operating, security deposit, reserve, escrow and lockbox accounts maintained by Mortgagor with respect to the Property, including, without limitation, all accounts established or maintained pursuant to the Loan Agreement or any other Loan Document, together with all deposits or wire transfers made to such accounts, and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time, and all proceeds, products, distributions, dividends and/or substitutions thereon and thereof;

(p) Uniform Commercial Code Property. All documents, instruments, chattel paper, intangibles, and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code, relating to the Property;

(q) Proceeds. All proceeds of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether in cash, or in liquidation or other claims or otherwise; and

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

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by Applicable Law, Mortgagor expressly grants to the Lenders, as secured parties, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "**Real Property**") appropriated to the

use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and conveyed hereby.

#### Section 1.2 Assignment of Rents.

(a) Mortgagor hereby absolutely, presently and unconditionally conveys, transfers and assigns to the Administrative Agent, for the benefit of itself and the Lenders, all of Mortgagor's right, title and interest, now existing or hereafter arising, in and to the Leases and Rents. Notwithstanding that this assignment is effective immediately, so long as no Event of Default exists, Mortgagor shall have the privilege under a revocable license granted hereby to operate and manage the Property and to collect, as they become due, but not more than one (1) month prior to accrual, the Rents. Mortgagor shall receive and hold such Rents in trust as a fund to be applied, and Mortgagor hereby covenants and agrees that such Rents shall be so applied, first to the operation, maintenance and repair of the Property, including, without limitation, the payment of taxes and insurance, and the payment of interest, principal and other sums becoming due under the Debt, before retaining and/or disbursing any part of the Rents for any other purpose. The license herein granted to Mortgagor shall automatically, without notice or any other action by Administrative Agent, terminate upon the occurrence of an Event of Default, and all Rents subsequently collected or received by Mortgagor shall be held in trust by Mortgagor for the sole and exclusive benefit of the Administrative Agent and the Lenders. Nothing contained in this Section 1.2, and no collection by Administrative Agent, for the benefit of itself and the Lenders, of Rents, shall be construed as imposing on Administrative Agent or any Lender any of the obligations of the lessor under the Leases. The rights of the Administrative Agent contained in this Section 1.2 are in addition to and shall be cumulative with the rights of the Administrative Agent or the Lenders set forth in any other instrument of similar import, given herewith by Mortgagor to the Administrative Agent or the Lenders as security for the payment and performance of the Obligations, and to the extent of any inconsistency between the terms of such instrument and the terms of this Section 1.2, the terms of such instrument shall control.

(b) Mortgagor shall timely perform all of its obligations under the Leases. Mortgagor represents and warrants that: (i) Mortgagor has title to and full right to assign presently, absolutely and unconditionally the Leases and Rents; and (ii) no other assignment of any interest in any of the Leases or Rents has been made.

(c) Except as expressly permitted pursuant to the terms of the Loan Agreement, Mortgagor shall not, without the prior written consent of Administrative Agent: (i) enter into any lease of all or any portion of the Property; (ii) amend, modify, terminate or accept a surrender of any Lease; or (iii) collect or accept rent from any tenant of the Property for a period of more than one (1) month in advance. Any of the foregoing acts, if done without the prior written consent of Administrative Agent in each instance, shall be null and void.

#### Section 1.3 Security Agreement Fixture Filing.

(a) This Security Instrument shall also be considered a security agreement under the Uniform Commercial Code. 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 Mortgagor in the Property. By executing and delivering this Security Instrument, Mortgagor hereby grants to the Administrative Agent for the benefit of the Lenders, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property and other property constituting the Property to the full extent that the Fixtures, the

Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the “**Collateral**”). Mortgagor hereby authorizes Administrative Agent to file financing statements, continuation statements and financing statement amendments in such form as Administrative Agent may require to perfect or continue the perfection of this security interest without the authorization or signature of Mortgagor. If an Event of Default shall occur and be continuing, Administrative Agent, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, 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, the right to take possession of the Collateral or any part thereof, and to take such other measures as Administrative Agent may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Administrative Agent, after the occurrence and during the continuance of an Event of Default, Mortgagor shall, at its expense, assemble the Collateral and make it available to Administrative Agent, at a convenient place (at the Land if tangible property) reasonably acceptable to Administrative Agent. Mortgagor shall pay to Administrative Agent, on demand any and all expenses, including reasonable legal expenses and attorneys’ fees, incurred or paid by the Administrative Agent or the Lenders in protecting their interest in the Collateral and in enforcing their rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Administrative Agent, with respect to the Collateral sent to Mortgagor in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by Applicable Law, constitute reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by Applicable Law, be applied by Administrative Agent to the payment of the Debt and other Obligations in such priority and proportions as Administrative Agent in its discretion shall deem proper.

(b) As to those items of the Collateral which are or shall become affixed to the Land and/or the Improvements, and all products and proceeds thereof, this Security Instrument is and shall be effective as a Financing Statement filed as a fixture filing as and from the date of its recordation in the real estate records of the County in which the Land is situated. The addresses of Mortgagor (Debtor) and Administrative Agent (Secured Party), are set forth below. The name of the record owner of the Land and Improvements is the Mortgagor. This Security Instrument is to be filed for recording with the recorder’s office of any county or counties where the Land (including such Fixtures) is located. The definition of the “Property” contained in Section 1.1 of this Security Instrument describes the types and items of Personal Property affixed or to be affixed to the Land and the Improvements. For this purpose, the following information is set forth:

Name and Address of Debtor

Wellmore of Daniel Island PropCo, LLC  
3530 Toringdon Way, Suite 204  
Charlotte, North Carolina 28277  
Attn: Donald O. Thompson, Jr.

Name and Address of Administrative Agent (Secured Party):

Truist Bank  
Agency Services  
303 Peachtree Street, N.E., 25<sup>th</sup> Floor

Atlanta, Georgia 30308  
Attention: Agency Services Manager

This document covers any portion of the Property that now is or later may become a fixture attached to the Land.

Debtor is the record owner of the Property.

Section 1.4 Pledges of Monies Held. Mortgagor hereby pledges to the Administrative Agent of the benefit of the Lenders any and all monies now or hereafter held by the Administrative Agent or the Lenders in connection with the Loan, including, without limitation, any sums deposited in the Accounts (as defined in the Loan Agreement), and proceeds thereof, as additional security for the Obligations until expended or applied as provided in this Security Instrument.

### CONDITIONS TO GRANT

**TO HAVE AND TO HOLD** the above granted and described Property unto and to the use and benefit of the Administrative Agent for the benefit of the Lenders and their successors and assigns, forever;

**PROVIDED ALWAYS**, these presents are upon the express condition, that if Mortgagor has paid the Debt and other Obligations in full and performed all of its obligations pursuant to this Security Instrument and the other Loan Documents, and no further advances are to be made under the Loan Agreement, Administrative Agent, will provide a satisfaction and cancellation of this Security Instrument and termination statements for filed financing statements, if any, to Mortgagor. Mortgagor shall be responsible for the recordation of such cancellation and satisfaction and the payment of any recording and filing costs. Upon the recording of such cancellation and satisfaction and the filing of such termination statements, the absolute assignments set forth in Section 1.2 shall automatically terminate and become null and void. It is intended by the parties hereto that this Security Instrument shall operate as a mortgage under the laws of the State of South Carolina.

### ARTICLE II. DEBT AND OBLIGATIONS SECURED

Section 2.1 Obligations. This Security Instrument and the grants, conveyances, assignments and transfers made in Article 1 are given for the purpose of securing the Obligations (as defined in the Loan Agreement), including, but not limited to, the Debt and the following:

- (a) the performance of all other obligations of Mortgagor contained herein;
- (b) the payment and performance of each other obligation of Mortgagor contained in the Loan Agreement and any other Loan Document;
- (c) the performance of each obligation of Mortgagor 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 or any other Loan Document; and
- (d) the payment and performance of all Hedging Obligations owed by Mortgagor to Administrative Agent or any Lender or any affiliate of any Lender (other than Excluded Swap Obligations) and all Bank Product Obligations, together with all renewals, extensions, modifications or refinancings of any of the foregoing. Where the context requires, any affiliate of a Administrative Agent or any Lender which is party to a Hedging Transaction entered into to limit



interest rate or fee fluctuations with respect to the Loans shall be deemed to be a "Lender" for purposes of this Security Instrument and such affiliate shall only be required to be an affiliate of such Administrative Agent or such Lender at the time the relevant Hedging Transaction is entered into in order for such Hedging Transaction to be eligible to be designated as an "Obligation."

Section 2.2 Future Advances. This Security Instrument shall secure any additional loans as well as any and all present or future advances and readvances made by the Administrative Agent or the Lenders to or for the benefit of Mortgagor or the Property whether such advances are obligatory or are made at the option of the Administrative Agent, the Lenders or otherwise, and all renewals or extensions thereof, all of which shall be secured hereunder in accordance with Section 29-3-50, Code of Laws of South Carolina 1976, as amended, to the same extent as though such future advances were made at the execution of the Note and this Security Instrument, including, without limitation: (a) principal, interest, late charges, fees and other amounts which the Administrative Agent or the Lenders may advance pursuant to the Loan Documents; (b) all advances by the Administrative Agent or Lenders to or for the benefit of Mortgagor or any other person to pay costs of erection, construction, alteration, repair, restoration, maintenance and completion of any improvements on the Property; (c) all advances made or costs incurred by the Administrative Agent or the Lenders for the payment of real estate taxes, assessments or other governmental charges, maintenance charges, insurance premiums, appraisal charges, environmental inspection, audit, testing or compliance costs, private assessments or maintenance costs, and costs incurred by the Administrative Agent or the Lenders for the enforcement and protection of the Property or the lien and security title of this Security Instrument; and (d) all legal fees, costs and other expenses incurred by the Administrative Agent or the Lenders by reason of any default or otherwise in connection with the Obligations. The total amount of indebtedness secured by this Security Instrument may be increased or decreased from time to time, but the total unpaid balance so secured at any one time shall not exceed twice the face amount of the Note, plus interest thereon and any disbursements made under this Security Instrument for the payment of impositions, taxes, assessments, levies, insurance, or otherwise with interest on such disbursements, plus any increase in the principal balance as the result of negative amortization or deferred interest, if any. Mortgagor agrees that if, at any time during the term of this Security Instrument or following a foreclosure hereof (whether before or after the entry of a judgment of foreclosure), Mortgagor fails to perform or observe any covenant or obligation under this Security Instrument including, without limitation, payment of any of the foregoing, Administrative Agent, may (but shall not be obligated to) take such steps as are reasonably necessary to remedy any such nonperformance or nonobservance and provide payment thereof. All amounts advanced by the Administrative Agent or the Lenders shall be added to the amount secured by this Security Instrument and the other Loan Documents (and, if advanced after the entry of a judgment of foreclosure, by such judgment of foreclosure), and shall be due and payable on demand, together with Default Interest, such interest to be calculated from the date of such advance to the date of repayment thereof. Without the prior written consent of Administrative Agent, which Administrative Agent may grant or withhold in its sole discretion, Mortgagor shall not file for record any notice limiting the maximum principal amount that may be secured by this Security Instrument to a sum less than the maximum principal amount set forth herein.

### ARTICLE III. MORTGAGOR COVENANTS

Mortgagor covenants and agrees that throughout the term of the Loan:

Section 3.1 Payment of Debt. Mortgagor will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

Section 3.2 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) 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. Mortgagor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Mortgagor and the Property as required pursuant to the Loan Agreement.

Section 3.4 Maintenance of Property. Mortgagor shall (a) cause the Property to be maintained in a good and safe condition and repair; (b) make or cause to be made, as and when necessary, all repairs, replacements and additions, whether or not insurance proceeds are available therefor; and (c) not remove, demolish, materially alter, discontinue the use of, permit to become vacant or deserted, or otherwise dispose of all or any part of the Property (except for normal replacement of the Fixtures, the Equipment or the Personal Property and refurbishment of the Improvements) without the consent of Administrative Agent, except as expressly permitted under the terms of the Loan Agreement and the other Loan Documents. Subject to the terms of the Loan Agreement, Mortgagor 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. All alterations, replacements, renewals or additions made pursuant hereto shall automatically become a part of the Property and shall be covered by the lien of this Security Instrument. Administrative Agent shall have the right, but not the obligation, to enter upon the Property at any reasonable time to inspect and photograph its condition and state of repair. In the event any such inspection reveals, in the sole discretion of Administrative Agent, the necessity for any repair, alteration, replacement, clean-up or maintenance, Mortgagor shall, at the discretion of Administrative Agent, either: (i) cause such work to be effected immediately; or (ii) promptly establish an interest bearing reserve fund with Administrative Agent, in an amount determined by Administrative Agent for the purpose of effecting such work.

Section 3.5 Waste. Mortgagor 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 allow the cancellation of any insurance policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security of this Security Instrument. Mortgagor will not, without the prior written consent of Administrative Agent, 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 3.6 Payment for Labor and Materials. Subject to Mortgagor's right to contest such amounts in accordance with the terms of the Loan Agreement, Mortgagor will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials ("**Labor and Material Costs**") incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests created hereby and by the other Loan Documents, 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 created hereby and by the other Loan Documents, except for the Permitted Encumbrances.

Section 3.7 Performance of Other Agreements. Mortgagor shall observe and perform each and every term, covenant and provision to be observed or performed by Mortgagor pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.8 Seisin and Warranty. Mortgagor hereby warrants that (a) Mortgagor is seized of an indefeasible estate in fee simple in, and warrants the title to, the Property subject only to those matters set forth in Exhibit B attached hereto (the “**Permitted Encumbrances**”); (b) Mortgagor has the right, full power and lawful authority to grant, convey and assign the same to the Administrative Agent, in the manner and form set forth herein; and (c) this Security Instrument is a valid and enforceable first lien on and security title to the Property. Mortgagor hereby covenants that Mortgagor shall (a) preserve such title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to the Administrative Agent and the Lenders against all lawful claims whatsoever, subject to the Permitted Encumbrances; and (b) execute, acknowledge and deliver all such further documents or assurances as may at any time hereafter be required by Administrative Agent to protect fully the lien of this Security Instrument.

Section 3.9 Taxes and Other Charges. Mortgagor shall promptly pay and discharge all taxes, assessments, water and sewer rents, and other governmental charges imposed upon the Property (“Taxes”) when due, but in no event after interest or penalties commence to accrue thereon or become a lien upon the Property. Notwithstanding the foregoing, Mortgagor shall have the right to contest, at its own expense, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity of such Taxes, in accordance with the terms of the Loan Agreement.

Section 3.10 Escrows. Upon the occurrence of an Event of Default, if required by Administrative Agent, Mortgagor shall pay to Administrative Agent at the time of each installment of interest due under the Loan Agreement, and commencing with the first payment due after the date of such request, a sum equal to (a) the amount of the next installment of Taxes, and/or (b) the premiums which will next become due on the insurance policies required by the Loan Agreement, all in amounts as estimated by Administrative Agent, less all sums already paid therefor or deposited with the Administrative Agent or the Lenders for the payment thereof, divided by the number of payments to become due before one (1) month prior to the date when such Taxes and/or premiums, as applicable, will become due, such sums to be held by the Administrative Agent to pay the same when due. If such escrow funds are not sufficient to pay such Taxes and/or insurance premiums, as applicable, as the same become due, Mortgagor shall pay to Administrative Agent, upon request, such additional amounts as Administrative Agent shall estimate to be sufficient to make up any deficiency. Upon the occurrence of an Event of Default, Administrative Agent, shall have the right, at its sole discretion, to apply any amounts so held against the Debt and the other Obligations.

Section 3.11 Removal of Fixtures. Mortgagor shall not remove or permit to be removed from the Property any Fixtures presently or in the future owned by Mortgagor (unless such Fixtures have been replaced with similar Fixtures of equal or greater utility and value).

## ARTICLE IV. OBLIGATIONS AND RELIANCES

Section 4.1 Relationship of Mortgagor and Administrative Agent. The relationship as between Mortgagor and the Administrative Agent is solely that of debtor and creditor, and neither the Administrative Agent nor any of the Lenders have a fiduciary or other special relationship with Mortgagor, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument or the other Loan Documents shall be construed so as to deem the relationship between Mortgagor and the Administrative Agent or the Lenders to be other than that of debtor and creditor.

Section 4.2 No Reliance on the Lenders. The general partners, members, principals and (if Mortgagor is a trust) beneficial owners of Mortgagor, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Mortgagor and the Administrative Agent and the

Lenders are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Mortgagor is not relying on the Administrative Agent or the Lenders' expertise, business acumen or advice in connection with the Property.

Section 4.3 No Lender or Administrative Agent Obligations.

(a) Notwithstanding anything herein to the contrary, neither Administrative Agent nor any of the Lenders are undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to any other agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses or other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to the Administrative Agent 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, neither the Administrative Agent, nor any Lender shall be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or the effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by such Administrative agent or any Lender.

Section 4.4 Reliance. Mortgagor recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, the Lenders are expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Administrative Agent, on behalf of itself and the Lenders; that such reliance existed on the part of any Lender prior to the date hereof, that the warranties and representations are a material inducement to the Lenders in making the Loan; and that the Lenders 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.

## ARTICLE V. FURTHER ASSURANCES

Section 5.1 Recording of Security Instrument, Etc. Mortgagor 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 conveying, creating or evidencing the liens or security interest 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 liens or security interest hereof upon, and the interest of the Administrative Agent in the Property. Mortgagor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any Security Instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of any 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, any mortgage supplemental hereto, any Security Instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of any of the foregoing documents, except where prohibited by law so to do.

Section 5.2 Further Acts, Etc. Mortgagor will, at the cost of Mortgagor, and without expense to the Administrative Agent or the Lenders, do, execute, acknowledge and deliver all and every such further

acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as Administrative Agent shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto the Administrative Agent the property and rights hereby deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to the Administrative Agent, 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 Applicable Law. Mortgagor hereby irrevocably authorizes Administrative Agent, its counsel or its representative, at any time and from time to time, to file financing statements and amendments as Administrative Agent may deem necessary, including financing statements and amendments that describe the collateral covered by such financing statements as "all assets of Mortgagor" or "all personal property of Mortgagor" or words of similar effect, in order to perfect the security interests granted by Mortgagor under this Security Instrument. Mortgagor grants to Administrative Agent, an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to the Lenders at law and in equity, including without limitation such rights and remedies available to the Administrative Agent pursuant to this Section 5.2.

### Section 5.3 Changes in Tax, Debt, Credit and Documentary Stamp Laws.

(a) If any Applicable 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 the Administrative Agent's interest in the Property, Mortgagor will pay the tax, with interest and penalties thereon, if any. If Administrative Agent is advised by counsel chosen by it that the payment of tax by Mortgagor would be unlawful or taxable to the Administrative Agent or the Lenders or unenforceable or provide the basis for a defense of usury, then Administrative Agent shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable.

(b) Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes 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 Applicable Law, Administrative Agent shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable.

Section 5.4 Splitting of Security Instrument. This Security Instrument and the Note may, at any time until the same shall be fully paid and satisfied, at the sole election of Administrative Agent be split or divided into two or more notes and two or more security instruments, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Mortgagor, upon written request of Administrative Agent, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Administrative Agent, and/or its designee or designees, substitute notes and security instruments in such principal amounts, aggregating not more than the then unpaid principal amount of the Note, and containing terms, provisions and clauses identical to those contained herein and in the Note, and such other documents and instruments as may be required by Administrative Agent.

## ARTICLE VI. DUE ON SALE/ENCUMBRANCE

Section 6.1 Lender's Reliance. Mortgagor acknowledges that the Administrative Agent and the Lenders have examined and relied on the experience of Mortgagor and its general partners, managers, members, principals and beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Mortgagor's ownership of the Property as a means of maintaining the value of the Property as security for the repayment of the Debt and the payment and performance of the other Obligations. Mortgagor acknowledges that the Administrative Agent and the Lenders have a valid interest in maintaining the value of the Property so as to ensure that, should there be an Event of Default, the Lenders can recover the Debt and the other Obligations by a sale of the Property.

Section 6.2 No Transfer or Encumbrance. Except as expressly permitted in the Loan Agreement, Mortgagor shall not permit or suffer any Transfer of the Property, without the prior written consent of Administrative Agent. Except as permitted under the Loan Agreement, without the prior written consent of Administrative Agent, Mortgagor will not permit the Property to become subject to any lien, easement, right of way, roadway (public or private), common area, condominium regime, cooperative housing regime, restrictive covenant, Lease or other matter of any nature that would affect title to the Property, other than the Permitted Encumbrances. Mortgagor shall give Administrative Agent, written notice of any default under any Lien. As used herein, the term "Transfer" means any direct or indirect sale, transfer, conveyance, mortgage, pledge or assignment of (i) the Property or any part thereof, or any direct legal or beneficial interest therein; or (ii) any ownership interest in Mortgagor, or any direct or indirect owner of Mortgagor, direct or indirect, legal or equitable.

## **ARTICLE VII. EVENTS OF DEFAULT; REMEDIES**

Section 7.1 Event of Default. Each of the following shall constitute a default (each, an "Event of Default") hereunder:

- (a) An Event of Default (as defined therein) occurs under the Loan Agreement;
- (b) Mortgagor fails to promptly perform or comply with any of the obligations set forth in this Security Instrument, and such failure continues beyond that date which is thirty (30) days after the earlier of (i) the date on which Administrative Agent notifies Mortgagor of such failure or (ii) the date on which Mortgagor otherwise becomes aware of such failure; or
- (c) A default or event of default occurs under any of the Note or any other Loan Document other than the Loan Agreement, and such default or event of default continues beyond the expiration of the applicable grace or notice and cure period therefor, if any, set forth in such Loan Document (without duplication).

Section 7.2 Remedies. If an Event of Default shall have occurred, Administrative Agent, on behalf of itself and the Lenders, may take any of the following actions:

- (a) Acceleration. Administrative Agent may declare the entire amount of the Obligations immediately due and payable, without presentment, demand, notice of any kind, protest or notice of protest, all of which are expressly waived, notwithstanding anything to the contrary contained in any of the Loan Documents. Administrative Agent may charge and collect Default Interest from the date of default on the unpaid balance of the Obligations, at the rate set forth in the Loan Agreement.
- (b) Possession. Administrative Agent may enter upon and take possession of the Property, with or without legal action, lease the Property, collect therefrom all rentals and, after

deducting all costs of collection and administration expense, apply the net rentals to any one or more of the following items in such manner and in such order of priority as Administrative Agent, in its sole discretion, may elect: the payment of any sums due under any prior lien, taxes, water and sewer rents, charges and claims, insurance premiums and all other carrying charges, to the maintenance, repair or restoration of the Property, or on account of the Obligations. Administrative Agent is given full authority to do any act which Mortgagor could do in connection with the management and operation of the Property. This covenant is effective either with or without any action brought to foreclose this Security Instrument and without applying for a receiver of such rents. In addition to the foregoing, upon the occurrence of an Event of Default, Mortgagor shall pay monthly in advance to Administrative Agent, on behalf of itself and the lenders, or to any receiver appointed to collect said rents the fair and reasonable rental value for Mortgagor's use and occupation of the Property, and upon default in any such payment Mortgagor shall vacate and surrender the possession of the Property to Administrative Agent or to such receiver. If Mortgagor does not vacate and surrender the Property then Mortgagor may be evicted by summary proceedings.

(c) Foreclosure. Administrative Agent shall have the right to foreclose this Security Instrument and to have a judicial sale of the Property, as an entirety, or judicial sales of such portions thereof as Administrative Agent shall in its sole discretion determine, in separate lots or parcels, whose configuration and sizes shall be determined by Administrative Agent in its sole discretion, with any such sale(s) to be under the judgment or decree of a court of competent jurisdiction. Administrative Agent shall retain the right at all times to bid upon and purchase the Property, or any portion thereof, at such sale and, upon compliance with such bid, to hold, retain, possess and dispose of the Property or the portion thereof so acquired in its own absolute right without further accountability of any nature to Mortgagor or any other persons whomsoever. Administrative Agent shall further, at its option, be authorized to foreclose this Security Instrument subject to the rights of any tenants of the Property having priority over this Mortgage, and the failure to name any such tenants as parties defendant to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted by Mortgagor or any other persons to be, a defense to any proceedings instituted by Administrative Agent to collect the sums secured hereby or to collect any deficiency remaining unpaid after the foreclosure sale of the Property. Administrative Agent shall have the right to credit the amount of its bid, should it be the successful bidder on the Property or any portion thereof, upon the unpaid outstanding amount of the Obligations in lieu of a cash payment therefor. Notwithstanding anything contained in this Section 7.2 to the contrary, Administrative Agent may proceed to foreclose hereunder as to the Real Property covered hereby only or, at its sole election, Administrative Agent may exercise its right to foreclose with respect to the Personal Property as a part of a single action to foreclose upon the Real Property and the Personal Property, in which case the provisions of the Uniform Commercial Code (and any other provisions hereof to the contrary) shall not apply or shall be deemed to have been fulfilled by virtue of the foreclosure action, the event of any sale under this Security Instrument pursuant to any order in any judicial proceedings or otherwise, and the Property may be sold as an entirety or in separate parcels and in such manner or order as Administrative Agent in its sole discretion may elect.

(d) Appointment of Receiver. Administrative Agent may petition a court of competent jurisdiction to appoint a receiver of the Property. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver, without regard to the then value of the Property or whether the Property shall be then occupied as a homestead or not, and without regard to whether Mortgagor has committed waste or allowed deterioration of the Property, and Administrative Agent or any agent of Administrative Agent may be appointed as such receiver. Mortgagor hereby agrees that the Lenders have a special interest in the Property and absent the appointment of such receiver the

Property shall suffer waste and deterioration and Mortgagor further agrees that it shall not contest the appointment of a receiver and hereby so stipulates to such appointment pursuant to this paragraph. Such receiver shall have the power to perform all of the acts permitted Administrative Agent pursuant to sub-section (b) above and such other powers which may be necessary or customary in such cases for the protection, possession, control, management and operation of the Property during such period.

(e) Rights as a Secured Party. The Lenders shall have, in addition to other rights and remedies available at law or in equity, the rights and remedies of a secured party under the Uniform Commercial Code. Administrative Agent may elect to foreclose such of the Property as then comprise Fixtures pursuant either to the law applicable to foreclosure of an interest in real estate or to that applicable to personal property under the Uniform Commercial Code. To the extent permitted by law, Mortgagor waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect.

(f) Excess Monies. Administrative Agent may apply on account of the Obligations any unexpended monies still retained by the Lenders that were paid by Mortgagor to the Lenders: (a) for the payment of, or as security for the payment of taxes, assessments or other governmental charges, insurance premiums, or any other charges; or (b) to secure the performance of some act by Mortgagor.

(g) Collection of Rents. Upon the occurrence of an Event of Default, the license granted to Mortgagor to collect the Rents shall be automatically and immediately revoked, without further notice to or demand upon Mortgagor. Administrative Agent may, but shall not be obligated to, perform any or all obligations of the landlord under any or all of the Leases, and Administrative Agent, on behalf of itself and the Lenders may, but shall not be obligated to, exercise and enforce any or all of Mortgagor's rights under the Leases. Without limitation to the generality of the foregoing, Administrative Agent may notify the tenants under the Leases that all Rents are to be paid to Administrative Agent, and following such notice all Rents shall be paid directly to Administrative Agent and not to Mortgagor or any other Person other than as directed by Administrative Agent it being understood that a demand by Administrative Agent on any tenant under the Leases for the payment of Rent shall be sufficient to warrant payment by such tenant of Rent to Administrative Agent without the necessity of further consent by Mortgagor. Mortgagor hereby irrevocably authorizes and directs the tenants under the Leases to pay all Rents to Administrative Agent instead of to Mortgagor, upon receipt of written notice from Administrative Agent, without the necessity of any inquiry of Mortgagor and without the necessity of determining the existence or non-existence of an Event of Default. Mortgagor hereby appoints Administrative Agent as Mortgagor's attorney-in-fact with full power of substitution, which appointment shall take effect upon the occurrence of an Event of Default and is coupled with an interest and is irrevocable prior to the full and final payment and performance of the Obligations, in Mortgagor's name or in Administrative Agent's, name: (a) to endorse all checks and other instruments received in payment of Rents and to deposit the same in any account selected by Administrative Agent, on behalf of itself and the Lenders; (b) to give receipts and releases in relation thereto; (c) to institute, prosecute and/or settle actions for the recovery of Rents; (d) to modify the terms of any Leases including terms relating to the Rents payable thereunder; (e) to cancel any Leases; (f) to enter into new Leases; and (g) to do all other acts and things with respect to the Leases and Rents which Administrative Agent may deem necessary or desirable to protect the security for the Obligations. Any Rents received shall be applied in accordance with the terms of sub-section (b), above.

(h) Other Remedies. Administrative Agent shall have the right from time to time to protect, exercise and enforce any legal or equitable remedy against Mortgagor provided under the



Loan Documents or by Applicable Law. Administrative Agent shall have the right, from time to time, to bring an appropriate action to recover any sums required to be paid by Mortgagor under the terms of this Security Instrument, as they become due, without regard to whether or not any other Obligations shall be due, and without prejudice to the right of any Lender thereafter to bring an action of foreclosure, or any other action, for any default by Mortgagor existing at the time the earlier action was commenced. In addition, the Administrative Agent and the Lenders shall have the right to set-off all or any part of any amount due by Mortgagor to the Administrative Agent or the Lenders under any of the Obligations, against any indebtedness, liabilities or obligations owing by the Administrative Agent or the Lenders in any capacity to Mortgagor, including any obligation to disburse to Mortgagor any funds or other property on deposit with or otherwise in the possession, control or custody of the Administrative Agent or the Lenders.

(i) Waiver of Mortgagor's Rights. BY EXECUTION OF THIS SECURITY INSTRUMENT, MORTGAGOR EXPRESSLY: (a) ACKNOWLEDGES THE RIGHT OF THE ADMINISTRATIVE AGENT TO ACCELERATE THE LIABILITIES SECURED BY THIS SECURITY INSTRUMENT AND TO FILE FORECLOSURE PROCEEDINGS UPON AN EVENT OF DEFAULT BY MORTGAGOR WITHOUT ANY NOTICE OTHER THAN SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS SECURITY INSTRUMENT; (b) WAIVES ANY AND ALL RIGHTS WHICH MORTGAGOR MAY HAVE UNDER THE CONSTITUTION OF THE UNITED STATES OF AMERICA (INCLUDING, WITHOUT LIMITATION, THE FIFTH AND FOURTEENTH AMENDMENTS THEREOF), THE VARIOUS PROVISIONS OF THE CONSTITUTIONS FOR THE SEVERAL STATES, OR BY REASON OF ANY OTHER APPLICABLE LAW, (i) TO NOTICE AND TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY THE ADMINISTRATIVE AGENT OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO THE ADMINISTRATIVE AGENT, EXCEPT SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS SECURITY INSTRUMENT AND (ii) CONCERNING THE APPLICATION, RIGHTS OR BENEFITS OF ANY STATUTE OF LIMITATION OR ANY MORATORIUM, REINSTATEMENT, MARSHALLING, FORBEARANCE, APPRAISEMENT, VALUATION, STAY, EXTENSION, HOMESTEAD, EXEMPTION OR REDEMPTION LAWS; (c) ACKNOWLEDGES THAT MORTGAGOR HAS READ THIS SECURITY INSTRUMENT AND ANY AND ALL QUESTIONS OF MORTGAGOR REGARDING THE LEGAL EFFECT OF THIS SECURITY INSTRUMENT AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO MORTGAGOR, AND MORTGAGOR HAS CONSULTED WITH COUNSEL OF MORTGAGOR'S CHOICE PRIOR TO EXECUTING THIS SECURITY INSTRUMENT; AND (d) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF MORTGAGOR HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY MORTGAGOR AS PART OF A BARGAINED FOR LOAN TRANSACTION AND THAT THIS SECURITY INSTRUMENT IS VALID AND ENFORCEABLE BY LENDER AGAINST MORTGAGOR IN ACCORDANCE WITH ALL THE TERMS AND CONDITIONS HEREOF.

Section 7.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Administrative Agent may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, remedy such Event of Default in such manner and to such extent as Administrative Agent may deem necessary to protect the security hereof. Administrative Agent 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 Obligations, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Obligations and shall be due and payable to Administrative Agent upon demand. All such

costs and expenses incurred by the Administrative Agent and the Lenders in remedying such Event of Default or in appearing in, defending, or bringing any such action or proceeding shall bear Default Interest, for the period beginning on the first day after notice from Administrative Agent that such cost or expense was incurred and continuing until the date of payment to Administrative Agent, on behalf of itself and the Lenders. All such costs and expenses incurred by the Administrative Agent and the Lenders together with Default Interest thereon shall be deemed to constitute a portion of the Obligations and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Administrative Agent therefor.

**Section 7.4 Other Rights, Etc.** The failure of the Administrative Agent or any 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. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (i) the failure of Administrative Agent or any Lender to comply with any request of Mortgagor or any guarantor or indemnitor with respect to the Loan 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 Obligations or any portion thereof, or (iii) any agreement or stipulation by any Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents.

It is agreed that the risk of loss or damage to the Property is on Mortgagor, and neither Administrative Agent nor any of the Lenders shall have no liability whatsoever for any decline in value of the Property, for failure to maintain the insurance policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Administrative Agent shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in the Administrative Agent or Lenders' possession.

Administrative Agent may resort for the payment and performance of the Obligations (including, but not limited to, the payment of the Debt) to any other security held by the Administrative Agent or the Lenders in such order and manner as Administrative Agent in its discretion, may elect. Administrative Agent may take action to recover the Debt, or any portion thereof, or to enforce the other Obligations or any covenant hereof without prejudice to the right of the Lenders thereafter to foreclose this Security Instrument. The rights of the Administrative Agent 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 Administrative Agent shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. The Administrative Agent 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 7.5 Right to Release And Portion of the Property.** Administrative Agent may release any portion of the Property for such consideration as Administrative Agent 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 lienholder with respect thereto, except to the extent that the Debt shall have been reduced by the actual monetary consideration, if any, received by Administrative Agent for such release, and Administrative Agent may accept by assignment, pledge or otherwise any other property in place thereof as Administrative Agent may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as security title to and a security interest in the remaining portion of the Property.

## ARTICLE VIII. WAIVERS

Section 8.1 Waiver of Counterclaim. To the extent permitted by Applicable Law, Mortgagor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by any Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

Section 8.2 Marshalling and Other Matters. To the extent permitted by Applicable Law, Mortgagor hereby waives 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, Mortgagor, for itself and all persons who may claim by, through or under Mortgagor, hereby expressly waives any so-called "Mortgage Law" and any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Security Instrument, it being the intent hereof that any and all such "Mortgage Laws", and all rights of reinstatement and redemption of Mortgagor and of all other persons claiming by, through or under Mortgagor are and shall be deemed to be hereby waived to the fullest extent permitted by the laws of the State in which the Property is located.

Section 8.3 Waiver of Notice. To the extent permitted by Applicable Law, Mortgagor shall not be entitled to any notices of any nature whatsoever from the Administrative Agent except with respect to matters for which this Security Instrument or the Loan Documents specifically and expressly provide for the giving of notice by the Administrative Agent to Mortgagor and except with respect to matters for which the Administrative Agent is required by Applicable Law to give notice. Mortgagor hereby expressly waives the right to receive any notice from the Administrative Agent with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by the Administrative Agent to Mortgagor.

Section 8.4 Waiver of Statute of Limitations. To the fullest extent permitted by Applicable Law, Mortgagor hereby expressly waives and releases its right to plead any statute of limitations as a defense to the payment of the Debt or payment or performance of its other Obligations.

Section 8.5 Additional Waivers. MORTGAGOR EXPRESSLY WAIVES THE FOLLOWING: ALL HOMESTEAD EXEMPTION RIGHTS, IF ANY, WHICH MORTGAGOR OR MORTGAGOR'S FAMILY MAY HAVE PURSUANT TO THE CONSTITUTION AND LAWS OF THE UNITED STATES, THE STATE OF SOUTH CAROLINA OR ANY OTHER STATE OF THE UNITED STATES, IN AND TO THE PROPERTY AS AGAINST THE COLLECTION OF THE OBLIGATIONS, OR ANY PART THEREOF. ALL WAIVERS BY MORTGAGOR IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY BY MORTGAGOR, AFTER MORTGAGOR HAS BEEN AFFORDED AN OPPORTUNITY TO BE INFORMED BY COUNSEL OF MORTGAGOR'S CHOICE AS TO POSSIBLE ALTERNATIVE RIGHTS. MORTGAGOR'S EXECUTION OF THIS SECURITY INSTRUMENT SHALL BE CONCLUSIVE EVIDENCE OF THE MAKING OF SUCH WAIVERS AND THAT SUCH WAIVERS HAVE BEEN VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY MADE.

## ARTICLE IX. MISCELLANEOUS

Section 9.1 Notices. All notices and communications under this Security Instrument shall be in writing and shall be given in accordance with the terms of Section 8.1 of the Loan Agreement.

Section 9.2 Remedies Cumulative. The rights and remedies of the Lenders as provided in this Security Instrument or in any other Loan Document shall be cumulative and concurrent, may be pursued separately, successively or together, may be exercised as often as occasion therefor shall arise, and shall be

in addition to any other rights or remedies conferred upon the Lenders at law or in equity. The failure, at any one or more times, of Administrative Agent to assert the right to declare the Obligations due, grant any extension of time for payment of the Obligations, take other or additional security for the payment thereof, release any security, change any of the terms of the Loan Documents, or waive or fail to exercise any right or remedy under any Loan Document shall not in any way affect this Security Instrument or the rights of the Administrative Agent or the Lenders.

Section 9.3 No Implied Waiver. Administrative Agent shall not be deemed to have modified or waived any of their rights or remedies hereunder unless such modification or waiver is in writing and signed by Administrative Agent and then only to the extent specifically set forth therein. A waiver in one event shall not be construed as continuing or as a waiver of or bar to such right or remedy with respect to a subsequent event.

Section 9.4 No Warranty by the Lenders. By inspecting the Property or by accepting or approving anything required to be observed, performed or fulfilled by Mortgagor or to be given to the Administrative Agent pursuant to this Security Instrument or any of the other Loan Documents, neither the Administrative Agent nor the Lenders shall be deemed to have warranted or represented the condition, sufficiency, legality, effectiveness or legal effect of the same, and such acceptance or approval shall not constitute any warranty or representation with respect thereto by the Administrative Agent or the Lenders.

Section 9.5 Partial Invalidity. The invalidity or unenforceability of any one or more provisions of this Security Instrument shall not render any other provision invalid or unenforceable. In lieu of any invalid or unenforceable provision, there shall be added automatically a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

Section 9.6 Binding Effect. The covenants, conditions, waivers, releases and agreements contained in this Security Instrument shall bind, and the benefits thereof shall inure to, the parties hereto and their respective heirs, executors, administrators, successors and assigns and are intended and shall be held to be real covenants running with the land; provided, however, that this Security Instrument cannot be assigned by Mortgagor without the prior written consent of Administrative Agent and any such assignment or attempted assignment by Mortgagor shall be void and of no effect with respect to the Lenders.

Section 9.7 Modifications. This Security Instrument may not be supplemented, extended, modified or terminated except by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought. No course of dealing or conduct by or among any of the Administrative Agent, the Lenders and Mortgagor shall be effective to amend, modify or change any provisions of this Security Instrument or the other Loan Documents.

Section 9.8 Commercial Loan. Mortgagor represents and warrants that the loans or other financial accommodations included as Debt secured by this Security Instrument were obtained solely for the purpose of carrying on or acquiring a business or commercial investment and not for residential, consumer or household purposes.

Section 9.9 Governing Law. The provisions of this Mortgage regarding the creation, perfection and enforcement of the liens and security interests herein granted shall be governed by and construed under the laws of the state in which the Property is located. All other provisions of this Assignment shall be governed by the laws of the State of North Carolina.

Section 9.10 Joint and Several Liability. If Mortgagor consists of more than one person or entity, the word "Mortgagor" shall mean each of them and their liability shall be joint and several.

Section 9.11 Instrument Under Seal. This Security Instrument is intended to be and shall be construed as an instrument under seal.

[Remainder of page intentionally blank]

**WAIVER OF APPRAISAL RIGHTS.** The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUED OF THE MORTGAGED PROPERTY.**

IN WITNESS WHEREOF, this Security Instrument has been duly executed UNDER SEAL by Mortgagor as of the day and year first above written.

**Signed, Sealed, and Delivered:  
in the Presence of:**

**MORTGAGOR:**

WELLMORE OF DANIEL ISLAND PROPCO,  
LLC, a Delaware limited liability company

By: WDI Parent, LLC, a South Carolina limited  
liability company, its Manager

By: Don. O. Thompson, Jr. (SEAL)

Name: Donald O. Thompson, Jr.

Title: Manager

STATE OF North Carolina )  
 )  
COUNTY OF Mecklenburg )

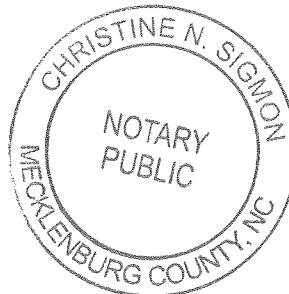
**ACKNOWLEDGEMENT**

I, Christine N. Sigmon, a Notary Public in and for the County and State aforesaid, certify that Donald O. Thompson, Jr., the Manager of WDI Parent, LLC, a South Carolina limited liability company, the Manager of Wellmore of Daniel Island Propco, LLC, a Delaware limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the Mortgagor.

WITNESS my hand and official stamp or seal this 28<sup>th</sup> day July 2020.

Notary Public Christine N. Sigmon

My Commission Expires 11-21-2024



**EXHIBIT A****LEGAL DESCRIPTION OF PROPERTY**

All that certain piece, parcel or tract of land, situate, lying and being on Daniel Island, City of Charleston, Berkeley County, South Carolina, being known and designated as Parcel J-2D on a plat entitled, "FINAL SUBDIVISION PLAT OF PARCEL J-2 (27.07 Ac.) TO CREATE PARCEL J-2D (9.77 Ac.) & PARCEL J-2, RESIDUAL (17.30 Ac.) CITY OF CHARLESTON BERKELEY COUNTY, SOUTH CAROLINA," by Thomas & Hutton Engineering Co., dated January 23, 2015 and recorded in the ROD Office for Berkeley County in Plat Cabinet S at Page 384a. Said parcel having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully and at large appear.

Together with the easement rights contained in the Memorandum of Road Completion Agreement by and between The Daniel Island Company, Inc. and Wellmore of Daniel Island, LLC dated February 23, 2016 and recorded in Book 2115 at Page 658; thereafter, re-recorded in Book 2136 at Page 811, in the Office of the Register of Deeds, Berkeley County, South Carolina.

Together with the easement rights contained in the Drainage Easement Agreement by and between Daniel Island Golf Club, LLC and Wellmore of Daniel Island, LLC dated February 23, 2016 and recorded in Book 2115 at Page 648; thereafter, re-recorded in Book 2136 at Page 801, in the Office of the Register of Deeds, Berkeley County, South Carolina.

BEING the same property as conveyed to Wellmore of Daniel Island PropCo, LLC by deed from Wellmore of Daniel Island, LLC, dated July 31, 2020, and recorded in the Berkeley County Register of Deeds Office in Book 3447, Page 553 on August 3, 2020.

Tax Parcel #: 2750000267

**EXHIBIT B**  
**PERMITTED ENCUMBRANCES**

1. Taxes and assessments for the year 2016, and subsequent years, which are a lien, but are not yet due and payable.
2. Possible rollback taxes as may be assessed under Section 12-43-220 of the SC Code of Laws, 1976, as amended.
3. Unrecorded Agreement between the Ham/ Frank Guggenheim Foundation and The Commissioners of Public Works of the City of Charleston dated February 22, 1991.
4. Unrecorded Water and Sewer Agreement between the Harry Frank Guggenheim Foundation, Daniel Island Development Company, Inc. and The Commissioners of Public Works of the City of Charleston dated February 24, 1994.
5. Unrecorded Impact Fee Agreement between the Harry Frank Guggenheim Foundation, Daniel Island Development Company, Inc. and The Commissioners of Public Works of the City of Charleston dated February 24, 1994.
6. Development Agreement among The Harry Frank Guggenheim Foundation, Daniel Island Development Company, Inc. and City of Charleston appearing of record in Book 681, page 300, thereafter amended in Book 1092, page 275, in Book 1695, page 74, and in Book 1931, page 187, aforesaid records as assigned by Assignment and Assumption of Rights and Easements appearing of record in Book 1093, page 290 and in Book 1093, page 298, in the Register of Deeds Office for Berkeley County.
7. Terms and conditions of the Daniel Island Master Plan dated March 19, 2012 as the same may be amended from time to time.
8. Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone appearing of record in Book 1587, page 220, as amended and/or supplemented from time to time, including, but not limited to, the following amendments and/or supplements: Book 2046, page 57, Book 2300, page 232, Book 2384, page 177, Book 2518, page 338 as re-recorded in Book 2776, page 294, Book 3313, page 102, Book 3788, page 117, Book 3981, page 261, Book 4357, page 77, Book 4638, page 53, Book 5808, page 148, Book 8706, page 182, Book 9379, page 144, and further amended to add subject property in Book 2115, page 642, aforesaid records.
9. Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Shared Parking Facilities appearing of record in Book 1723, page 278, and amended to add subject property in Book 2115, page 642, aforesaid records.
10. Second Amended and Restated Declaration of Easements and Covenant to Share Costs for Daniel Island appearing of record in Book 4472, page 17, aforesaid records.
11. Restrictive covenants contained on Exhibit C to the deed appearing of record in Deed Book 2198, page 49, aforesaid records.
12. Amended and Restated Daniel Island Declaration of Master Restriction for Docks and Breakwalls appearing of record in Book 1478, page 312, aforesaid records.



13. Rights of upper and lower riparian owners in and to the waters of various rivers and creeks crossing or adjoining the property, and the natural flow thereof, free from diminution or pollution.
14. Exclusive Storm Water Drainage Easement City of Charleston appearing of record in Book 11486, page 1, aforesaid records and as shown as Ex. City of Chas. 20' Drainage Easement on a plat entitled, "AN ALTA/ACSM LAND TITLE SURVEY OF PARCEL J-2D CONTAINING 9.77 Ac. CITY OF CHARLESTON BERKELEY COUNTY, SOUTH CAROLINA prepared for WELLMORE OF DANIEL ISLAND, LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY," by Thomas & Hutton Engineering Co., dated January 13, 2016.
15. Restrictive covenants and easements contained therein in the deed from The Daniel Island Company, Inc. to Wellmore of Daniel Island, LLC appearing of record in Deed Book 2115, page 631, aforesaid records.
16. Subject to the following matter as shown on a plat entitled, "AN ALTA/ACSM LAND TITLE SURVEY OF PARCEL J-2D CONTAINING 9.77 Ac. CITY OF CHARLESTON BERKELEY COUNTY, SOUTH CAROLINA prepared for WELLMORE OF DANIEL ISLAND, LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY," by Thomas & Hutton Engineering Co., dated January 13, 2016:
  - a. New CPW Water Easement (2,185 sq. ft.);
  - b. New CPW Water Easement (1,494 sq. ft.);
  - c. 20' Visual Buffer Zone.
17. Terms and conditions of the Drainage Easement Agreement appearing of record in Book 2115, page 648, aforesaid records.