LOAN AGREEMENT

THIS LOAN AGREEMENT ("Agreement" or "Loan Agreement") is entered into this 9th day of February, 2011 (the "Effective Date") by and between MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC, a Florida limited liability company (hereinafter referred to as "Borrower"), and the HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY, a dependent special district of the City of Hollywood, (hereinafter referred to as "Lender"). The parties to this Agreement may hereinafter be referred to collectively as "Parties", individually as a "Party" or by name.

RECITALS:

A. On July 30, 2009, the City of Hollywood (the "City") issued Request for Proposal No. 4212-09-IS for the redevelopment of the City-owned site commonly known as Johnson Street, comprising two contiguous parcels, for a resort hotel project. After a competitive process, which included public hearings and deliberations by the Mayor and City Commission, on April 7, 2010, pursuant to Resolution Number R-2010-097, the appropriate officials of the City were authorized to negotiate with Borrower the basic terms and conditions for such redevelopment.

B. The appropriate officials of the City have subsequently worked with representatives of Borrower in the preparation of that certain Development Agreement and Ground Lease (collectively, the "Ground Lease Agreement") which, among other things, provides for the construction, development, operation and maintenance of a resort hotel (the "Hotel") on the Leased Property (as therein defined), together with a Parking Garage (collectively, the "Developer Improvements"), and the development and construction of certain public improvements or facilities (the "Public Improvements"), as more particularly set forth in the Site Plan (the "Site Plan") attached to the Ground Lease Agreement.

C. In accordance with the terms and provisions set forth in the Ground Lease Agreement, and pursuant to the authorization of the Board of Commissioners of the Lender, the appropriate officials of the Lender have worked with representatives of Borrower in the preparation of this Agreement which provides for, among other things, (1) the Lender to lend the Borrower up to a maximum of $10,000,000 to finance the Improvement Costs (as that term is defined in the Lease), as more specifically described in this Agreement, and (2) in conjunction with the foregoing, the Borrower to comply with all the terms, conditions, responsibilities, and obligations set forth within the Ground Lease Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree as follows:

1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by reference. All capitalized terms not otherwise defined in this Agreement shall have the meaning ascribed thereto in the Ground Lease Agreement.

2. COMPLIANCE WITH GROUND LEASE AGREEMENT: As a material inducement for Lender to enter into this Agreement with Borrower, Borrower hereby covenants, at all times during the term of the Ground Lease Agreement, to comply with, perform, and/or satisfy each and every term, condition, obligation, and/or responsibility required of Borrower set forth within
the Ground Lease Agreement, including, but not limited to, the development, construction, maintenance, and operation (if applicable) of the Public Improvements and the Developer Improvements as contemplated therein.

3. **LOAN AMOUNT & TERM:**

   (a) The loan (the “Loan”) as contemplated herein shall be in the maximum amount of Ten Million and 00/100 ($10,000,000) Dollars and will be available pursuant to this Agreement as evidenced by a promissory note (the “Note”) and secured by a leasehold mortgage and security agreement (the “Leasehold Mortgage” or “Mortgage”) substantially in the form attached hereto as composite Exhibit “A”. The term of the Loan (hereinafter referred to as the “Loan Term”) shall commence immediately upon the Initial Funding Date (as defined below) of the Loan and shall continue for a period of ten (10) years from the date thereof or until earlier refinancing or Transfer of the Borrower’s leasehold interest in the Leased Property and Developer Improvements, as permitted under the terms of the Ground Lease Agreement (the “Maturity Date”).

   (b) The Loan shall be consummated and initially funded within thirty (30) days of Borrower’s initial request for an advance (the “Initial Funding Date”) of the Loan in the form of a Draw Request (as defined below) set forth in 7(c); provided, however, that said request shall not be made until such time as an FF&E order needs to be timely placed by Borrower based upon the progress of the Hotel's construction, but in no event shall said request be earlier than six (6) months from the commencement of said construction.

   (c) Within one hundred twenty (120) days of the issuance of a Certificate of Final Completion for the Developer Improvements upon the Leased Property, Borrower, at its sole cost and expense, shall cause to be prepared a formal accounting to determine the ratio of Improvement Costs versus Budgeted Improvement Costs. In the event that actual Improvement Costs are less than the construction costs set forth in the Budgeted Improvement Costs, then such savings shall result in a reduction in the amount of the Loan and Developer Equity on an 80% / 20% basis. (For example, if there is a savings of $1,000,000 in resort construction costs, then the maximum amount of the Loan will be reduced by $800,000 to $9,200,000 and the Developer Equity requirement will be reduced by $200,000 to $9,800,000.) If the amount of Loan funds disbursed in connection with the Project (as defined below) ultimately exceeds the amount of the Loan as determined by the above calculation, the difference shall become immediately due and payable to the Lender as a prepayment of principal.

4. **MONTHLY INTEREST PAYMENTS:**

   (a) **Rate of Interest.** Interest shall accrue upon the principal amount outstanding from time to time and shall be paid at the rate of five percent (5%) per annum and shall be payable in monthly installments commencing on the 1st day of the calendar month immediately following the initial funding of the Loan, and on the 1st day of each and every month thereafter until and including the Maturity Date.
(b) **Default Interest.** Notwithstanding the rate of interest specified in Section 4(a) immediately above, and the payment dates specified in Sections 4(a) and 5(a) hereof, effective immediately upon the occurrence, and during the continuance, of any Default, the principal balance of the Loan then outstanding and, to the extent permitted by applicable law, any interest payments on the Loan not paid when due, shall, at the option of Lender, bear interest payable upon demand at an interest rate equal to five percent (5%) per annum above the highest annual prime rate in effect for corporate loans at large U.S. money center commercial banks (the "Default Rate"). All other amounts due Lender (whether directly or for reimbursement) under this Agreement, the Note, the Mortgage, or any other related documents that Lender may reasonably require to evidence and secure the Loan (collectively, the "Loan Documents") if not paid when due, or if no time period is expressed, if not paid within ten (10) days after demand, shall likewise, at the option of the Lender, bear interest from and after demand at the Default Rate.

(c) **Late Fee.** Borrower acknowledges that late payment to Lender will cause Lender to incur costs not contemplated by this Agreement. Such costs include, without limitation, processing and accounting charges. Therefore, if Borrower fails timely to pay any sum due and payable hereunder on their respective maturity dates (other than payment of the entire outstanding balance of the Loan on the Maturity Date), unless waived by Lender, a late charge of five cents (5.05) for each dollar of any such principal payment, interest or other charge due hereon and which is not paid within fifteen (15) days after such payment is due, shall be charged by Lender and paid by Borrower for the purpose of defraying the expense incident to handling such delinquent payment. Borrower and Lender agree that this late charge represents a reasonable sum considering all of the circumstances existing on the date hereof and represents a fair and reasonable estimate of the costs that Lender will incur by reason of late payment. Borrower and Lender further agree that proof of actual damages would be costly and inconvenient. Acceptance of any late charge shall not constitute a waiver of the default with respect to the overdue installment, and shall not prevent Lender from exercising any of the other rights available hereunder or under any other Loan Document. Such late charge shall be paid without prejudice to any other rights of Lender.

(d) In no contingency or event whatsoever shall interest charged in respect of the Loan evidenced hereby, however such interest may be characterized or computed, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable hereto. If such a court determines that Lender has received interest hereunder in excess of the highest rate applicable hereto, Lender shall, at Lender's election, either (a) promptly refund such excess interest to Borrower or (b) credit such excess to the principal balance hereof. This provision shall control over every other provision of all agreements between Borrower and Lender.
5. **PRINCIPAL PAYMENT/PREPAYMENTS:**

(a) The entire unpaid principal balance remaining on the Loan evidenced by the Note plus all accrued and unpaid interest shall be due and payable in full on the Maturity Date.

(b) The Loan may be prepaid, in whole or in part, at any time without premium or penalty.

6. **SECURITY:**

Borrower will secure the Loan with the lien of the Leasehold Mortgage, substantially similar in the form attached hereto in Exhibit “A”, encumbering the Borrower’s leasehold interest as a first lien in the Leased Property and Developer Improvements (hereinafter referred to as the “Project”). The repayment of the Loan and the lien of the Leasehold Mortgage securing the same shall be superior in all respects to any equity and other debt (and any mortgage or other collateral securing the same) of the Project.

7. **USE OF PROCEEDS/DISBURSEMENTS:**

(a) The proceeds from the Loan will be used solely for the Improvement Costs designated in the Budgeted Improvement Costs, as “Furniture, Fixtures, and Equipment” or “Operating Supplies and Equipment” (collectively the “PF&E”), and disbursed pursuant to monthly draw requests submitted by the Borrower to the Lender meeting the requirements set forth herein.

(b) **Conditions Precedent to Advances.** Lender’s obligation to disburse the Loan or take any other action under the Loan Documents shall be subject at all times to satisfaction of each of the following conditions precedent;

a. There exists no Default or an event, circumstance, or condition which, with the giving of notice or the lapse of time, or both, would constitute a Default, under this Loan Agreement, or any of the other Loan Documents or any of the documents listed in Exhibit “D”, attached hereto and made a part hereof as hereafter amended, supplemented, replaced or modified from time to time (“Other Related Documents”); and

b. Lender shall have received all Loan Documents and such other documents, instruments, policies, and forms of evidence or other materials requested by Lender under the terms of this Agreement or any of the other Loan Documents; and

c. The Leasehold Mortgage is a valid first lien upon the Borrower’s interest in the Leased Property and is superior in all respects to any and all equity and other debt (and any mortgage or other collateral securing the same) on the Project; and

d. Lender shall have reviewed and approved a preliminary title report issued by a nationally recognized title company approved by the Lender (the
“Title Company”) showing the condition of title to the Leased Property with the Leased Property’s legal description and a copy of all documents listed as exceptions to said report, along with a commitment (in a form approved by Lender) issued by Title Company to issue an endorsement to the Title Policy insuring the lien of the Leasehold Mortgage as in accordance with Section 6 hereof; and

e. Lender shall have received evidence satisfactory to it that the Leased Property and the Developer Improvements are insured as required under Section 9 hereof; and

f. Borrower shall have paid all fees due to Lender hereunder; and

g. A Certificate from Borrower that the progress of the Hotel’s construction requires the placement of an FF&E order by Borrower (“Progress Certificate”); and

h. Lender shall be satisfied that no material adverse change has occurred to Borrower, its constituent entities, or the Project, including without limitation that there has not occurred: (i) a materially adverse change in the physical condition of the Project; or (ii) a change in market conditions which could affect the value of the Project.

(c) **Advances for Cost of FF&E.**

a. During the Loan Term, but after the date of receipt of the Progress Certificate by Lender, Lender shall make advances (each, an “Advance”) of the Loan to Borrower to fund one hundred percent (100%) of the actual cost of the FF&E, in an amount not to exceed $10,000,000.

b. Borrower may submit to Lender, not more than once per calendar month, a Draw Request (“Draw Request”), setting forth a description of the FF&E supplied and/or costs incurred or due for which disbursement is requested with respect to any line item (“Item”) shown on the Budgeted Improvement Costs; and the total amount incurred, expended and/or due for each requested Item, less prior disbursements; and the date on which Borrower requests that such disbursement be made (the “Funding Date”), which date shall in no event be earlier than five (5) Business Days following submittal by Borrower to Lender of the Draw Request (together with all related supporting information and certificates) and the satisfaction by Borrower of each applicable condition to disbursement set forth in this Loan Agreement. Each Draw Request shall include: (1) an Application for Payment and a Progress Certificate, each in substantially the form attached hereto as Exhibit “B”; (2) a contractor’s form of Progress Certificate and Request for Payment, each in substantially the form attached hereto as Exhibit “C”; and (3) such additional information and documentation as may be required by Lender.
c. The Draw Request shall have been made on the forms described above and shall have included: (i) all invoices from all FF&E suppliers and all other persons to be paid from such disbursement; (ii) lien waivers or releases to the extent permitted by law, conditioned only upon payment of the amount requested in Borrower's Draw Request, and otherwise lien subordinations or evidence of acknowledgement of payment to date reasonably satisfactory to Lender; and (iii) certifications from Lender's Consultant, Borrower and the Contractor regarding substantial conformance with the Plans and Specifications and compliance with the construction Budgeted Improvement Costs, along with certifications from the Architect regarding substantial conformance with the Plans and Specifications (may be the AIA form).

d. Each Draw Request and Application for Payment by Borrower shall constitute a representation and warranty by Borrower that Borrower is in compliance with all the conditions precedent to a disbursement specified in this Loan Agreement.

e. Advances shall be conditioned on the following: (x) the conditions precedent set forth in Section 7(b) above shall be satisfied as of the date of the Advance; and (y) such request shall include each of the following: (i) evidence that the FF&E have been purchased by Borrower; (ii) evidence that the FF&E are insured as required hereunder; and (iii) evidence that the FF&E are stored in an area in the Project for which adequate security is provided against theft and vandalism.

8. **REPRESENTATIONS AND WARRANTIES:**

As a material inducement to Lender's entry into this Loan Agreement, Borrower represents and warrants to Lender as of the Effective Date that:

(a) **Authority/Enforceability.** Borrower is in compliance with all laws and regulations applicable to its organization, existence and transaction of business and has all necessary rights and powers to own, improve and operate the Leased Property as contemplated by the Loan Documents.

(b) **Binding Obligations.** Borrower is authorized to execute, deliver and perform its obligations under the Loan Documents, and such obligations shall be valid and binding obligations of Borrower.

(c) **Formation and Organizational Documents.** Borrower has delivered to Lender all formation and organizational documents of Borrower and of members of Borrower, and all such formation and organizational documents remain in full force and effect and have not been amended or modified since they were delivered to Lender. Borrower's delivery of any such formation and organizational documents of Borrower and members of Borrower to the City shall be deemed delivery thereof to the Lender.
(d) **No Violation.** Borrower's execution, delivery, and performance under the Loan Documents do not: (a) require any consent or approval not heretofore obtained under any partnership agreement, operating agreement, articles of incorporation, bylaws or other formation or organizational document of the Borrower; (b) violate any governmental requirement applicable to the Leased Property or any other statute, law, regulation or ordinance or any order or ruling of any court or governmental entity; (c) conflict with, or constitute a breach or default or permit the acceleration of obligations under any agreement, contract, lease, or other document by which the Borrower or the Leased Property is bound or regulated; or (d) violate any statute, law, regulation or ordinance, or any order of any court or governmental entity, in any material respect.

(e) **Compliance With Laws.** Borrower has, and at all times shall have, obtained, all permits, licenses, exemptions, and approvals necessary to occupy, operate and market the Leased Property, and shall maintain compliance with all governmental requirements applicable to the Leased Property and all other applicable statutes, laws, regulations and ordinances necessary for the transaction of its business. The Leased Property is a legal parcel lawfully created in full compliance with all subdivision laws and ordinances.

(f) **Litigation.** Except as disclosed to Lender in writing, there are no claims, actions, suits, or proceedings pending, or to Borrower's knowledge, threatened against Borrower, that would materially and adversely affect the lien of Lender's Leasehold Mortgage or would materially and adversely effect Borrower's business operations or its ability to repay the Loan.

(g) **Financial Condition.** All financial statements and information heretofore and hereafter delivered to Lender by Borrower, including, without limitation, information relating to the financial condition of Borrower and the Leased Property, and/or Developer Improvements, fairly and accurately represent the financial condition of the subject thereof and have been prepared (except as noted therein) in accordance with generally accepted accounting principles consistently applied. Borrower acknowledges and agrees that Lender may request and obtain additional information from third parties regarding any of the above, including, without limitation, credit reports.

(h) **No Material Adverse Change.** There has been no material adverse change in the financial condition of Borrower since the dates of the latest financial statements furnished to Lender and, except as otherwise disclosed to Lender in writing, Borrower has not entered into any material transaction which is not disclosed in such financial statements.

(i) **Accuracy.** All reports, documents, instruments, information and forms of evidence delivered to Lender concerning the Loan or security for the Loan or required by the Loan Documents are, in all material respects, accurate, correct and sufficiently complete to give Lender true and accurate knowledge of their subject matter, and do not contain any misrepresentation or omission. Borrower's
representations in this Section 7 as to third party reports shall be limited to Borrower’s knowledge, after due inquiry.

(j) **Americans with Disabilities Act Compliance.** Borrower represents and warrants to Lender that the Leased Property and the Developer Improvements shall be hereafter maintained in material compliance with the requirements and regulations of the Americans With Disabilities Act, of July 26, 1990, Pub. L. No. 101336, 104 Stat. 327, 42 U.S.C. § 12101, et seq., as hereafter amended. At Lender’s written request from time to time, Borrower shall provide Lender with written evidence of such compliance reasonably satisfactory to Lender. Borrower shall be solely responsible for all such ADA costs of compliance and reporting.

(k) **Title.** Borrower owns good, indefeasible and marketable title to Borrower’s leasehold interest in the Leased Property and Developer Improvements free and clear of all liens, except for (i) the liens created by the Loan Documents and (ii) title exceptions shown on Schedule B of the Title Policy. No non-monetary encumbrance affecting Borrower’s leasehold interest in the Leased Property or the Developer Improvements has or will have a materially adverse effect on the title, ownership, value, use or operation of Borrower’s leasehold interest in the Leased Property and Developer Improvements.

(l) **Management Agreement.** Borrower is not a party or subject to any management agreement with respect to the Leased Property, except for those contemplated in the Ground Lease Agreement.

9. **INSURANCE:**

Borrower shall, while any obligation of Borrower under any Loan Document remains outstanding, maintain at Borrower’s sole expense, with licensed insurers approved by Lender, the following policies of insurance in form and substance reasonably satisfactory to Lender:

(a) **Title Insurance.** A Title Policy, together with any endorsements which Lender may reasonably require, insuring Lender in the principal amount of the Loan, of the validity and the priority of the lien of the Leasehold Mortgage upon the Borrower’s leasehold interest in the Leased Property, pursuant to the terms set forth in Section 6 hereof, subject only to matters approved by in writing. During the term of the Loan, Borrower shall deliver to Lender, within ten (10) days of Lender’s written request, such other endorsements to the Title Policy as Lender may reasonably require with respect to the Leased Property.

(b) **Other Insurance.** Borrower shall at all times during the Loan Term maintain property insurance, comprehensive general liability insurance, or such other insurance on the Leased Property and improvements located thereon as may be required under the Ground Lease Agreement, under the same terms and conditions as set forth therein.

(c) **Insurance Premiums.** Borrower shall pay all insurance premiums for the required policies as and when the same shall become due and payable. Upon Lender’s
written request, Borrower shall deliver to Lender receipted bills, cancelled checks and other evidence satisfactory to Lender evidencing the payment of the insurance premiums for the required policy that will go into effect upon expiration of the expiring policy.

(d) General. Borrower shall provide to Lender insurance certificates or other evidence of coverage in form reasonably acceptable to Lender, with the same coverage amounts, deductibles, limits and retentions and under the same terms and conditions as set forth within the Ground Lease Agreement. Lender shall be named under a Lender's Loss Payable Endorsement on all insurance policies which Borrower actually maintains with respect to the Leased Property and improvements thereon.

10. HAZARDOUS MATERIALS:

(a) Special Representations and Warranties. Lender acknowledges that Borrower is leasing the Leased Property from the City of Hollywood, Florida, and that Lender is a dependent special district of the City. For this reason, the provisions of this Paragraph 10 shall not apply to any Hazardous Materials present at the Leased Property as of the commencement of the Ground Lease Agreement. Without in any way limiting the other representations and warranties set forth in this Agreement, and after reasonable investigation and inquiry, Borrower hereby further represents and warrants to the best of Borrower's knowledge as of the date of this Agreement as follows:

a. Hazardous Materials. Except as disclosed to Lender in an environmental site assessment of the Leased Property delivered to Lender (the "Environmental Report"), the Leased Property is not and has not been a site for the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation or presence of any oil, flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "wastes," "regulated substances," "industrial solid wastes," or "pollutants" under the Hazardous Materials Laws, as described below, and/or other applicable environmental laws, ordinances and regulations (collectively, the "Hazardous Materials"). "Hazardous Materials" shall not include commercially reasonable amounts of such materials used in the ordinary course of operation of the Leased Property which are used and stored in accordance with all applicable environmental laws, ordinances and regulations.


c. Hazardous Materials Claims. There are no claims or actions ("Hazardous Materials Claims") pending or threatened against Borrower or the Leased Property by any governmental entity or agency or by any other person or entity relating to Hazardous Materials or pursuant to the Hazardous Materials Laws.

(b) Hazardous Materials Covenants. Borrower agrees as follows:

a. No Hazardous Activities. Borrower shall not cause or permit the Leased Property to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any Hazardous Materials except as disclosed by the Environmental Report.

b. Compliance. Borrower shall comply and cause the Leased Property to comply with all Hazardous Materials Laws.

c. Notices. Borrower shall promptly notify Lender in writing of: (i) the discovery of any Hazardous Materials on, under or about the Leased Property; (ii) any knowledge by Borrower that the Property does not comply with any Hazardous Materials Laws; and (iii) any Hazardous Materials Claims.

d. Remedial Action. In response to the presence of any Hazardous Materials on, under or about the Leased Property, Borrower shall promptly take, at Borrower's sole expense, all remedial action required by any Hazardous Materials Laws or any judgment, consent decree, settlement or compromise in respect to any Hazardous Materials Claims.

(c) Inspection by Lender. Upon reasonable prior notice to Borrower, Lender and its employees and agents, may from time to time (whether before or after the commencement of a non-judicial or judicial foreclosure proceeding) enter and inspect the Leased Property for the purpose of determining the existence, location, nature and magnitude of any past or present release or threatened release of any Hazardous Materials into, onto, beneath or from the Leased Property.

(d) Hazardous Materials Indemnity. BORROWER HEREBY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS LENDER AND ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND Assigns ("INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, CLAIMS, ACTIONS, JUDGMENTS, COURT COSTS AND LEGAL OR OTHER EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND EXPENSES) WHICH LENDER MAY INCUR AS A DIRECT OR INDIRECT CONSEQUENCE OF THE USE, GENERATION, MANUFACTURE, STORAGE, DISPOSAL, THREATENED DISPOSAL, TRANSPORTATION OR PRESENCE OF HAZARDOUS MATERIALS

(c) Survival of Indemnity. Borrower and Lender agree that it is expressly understood that Borrower’s duty to indemnify Lender hereunder shall survive: (a) any judicial or non-judicial foreclosure under the Mortgage, or transfer of the Leased Property in lieu thereof, (b) the release and reconveyance or cancellation of the Mortgage; and (c) the satisfaction of all of Borrower’s obligation under the Loan Documents.

11. COVENANTS OF BORROWER:

(a) Expenses. Borrower shall immediately pay Lender, upon demand, all reasonable costs and expenses incurred by Lender in connection with: (a) the preparation of this Loan Agreement and all other Loan Documents contemplated hereby; (b) the administration of this Agreement and the other Loan Documents for the Term of the Loan; and (c) the enforcement or satisfaction by Lender of any of Borrower’s obligations under this Loan Agreement or the other Loan Documents. For all purposes of this Agreement, Lender’s reasonable costs and expenses shall include, without limitation, all due diligence costs (including travel related thereto), appraisal fees, cost engineering and inspection fees, legal fees and expenses, accounting fees, environmental consultant fees, auditor fees, and the cost of any title insurance premiums, title surveys, reconveyance and notary fees. Borrower recognizes and agrees that formal written appraisals of the Leased Property by a licensed independent appraiser may be required by Lender’s internal procedures and/or federal regulatory reporting requirements on an annual and/or specialized basis and that Lender may, at its option, require inspection of the Leased Property by an independent supervising architect and/or cost engineering specialist annually and, in addition, at any time a Default exists. If any of the services described above are provided by an employee of Lender, Lender’s reasonable costs and expenses for such services shall be calculated in accordance with Lender’s standard charge for such services.

(b) Opinion of Legal Counsel. Borrower shall provide, at Borrower’s expense, an opinion of legal counsel in form and content reasonably satisfactory to Lender to the effect that: (a) upon due authorization, execution and recordation or filing as may be specified in the opinion, each of the Loan Documents shall be legal, valid and binding instruments, enforceable against the makers thereof in accordance
with their respective terms; (b) Borrower is duly formed and has all requisite authority to enter into the Loan Documents; and (c) such other matters, incident to the transactions contemplated hereby, as Lender may reasonably request.

(c) **Further Assurances.** Upon Lender’s request and at Borrower’s sole cost and expense, Borrower shall execute, acknowledge and deliver any other instruments and perform any other acts necessary, desirable or proper, as reasonably determined by Lender, to carry out the purposes of this Loan Agreement and the other Loan Documents, or to perfect and preserve any liens created by the Loan Documents.

(d) **Assignment.** Borrower shall not assign Borrower’s interest under any of the Loan Documents, or in any monies due or to become due thereunder, without Lender’s consent, and any assignment without such consent shall be void.

(e) **Existence.** Borrower shall at all times maintain its existence as a Florida limited liability company and preserve and keep in full force and effect its rights and franchises unless the failure to maintain such rights and franchises does not have a material adverse effect on Borrower.

(f) **Qualification, Name.** Borrower shall qualify and remain qualified to do business in each jurisdiction in which the nature of its business requires it to be so qualified except for those jurisdictions where failure to so qualify does not have a material adverse effect on Borrower. Borrower will transact business in its own name or fictitious name in keeping with its status as a Single Purpose Entity. Borrower will not change its name, address or state of formation without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed.

(g) **Compliance With Laws, Etc.** Borrower shall (a) comply with all applicable laws, and all restrictive covenants of record affecting Borrower or the Leased Property, performance, prospects, assets or operations of Borrower, and (b) obtain as needed all permits necessary for its operations and maintain such in good standing, except in each of the foregoing cases where the failure to do so will not have a material adverse effect on Borrower.

(h) **Single Purpose Entity Covenant.** Borrower is and shall continue to be a Single Purpose Entity.

(i) **Payment of Property Taxes, Etc.** Borrower shall pay all taxes, assessments, water rates, sewer rates and other charges, now or hereafter levied or assessed against the Leased Property (hereinafter referred to as the “Property Taxes”) prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof. Borrower shall deliver to Lender, upon request, receipted bills, cancelled checks and other evidence satisfactory to Lender evidencing the payment of the Property Taxes prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof.
(j) **Special Covenants.**

Without the prior written consent of Lender, which consent shall not be unreasonably withheld, Borrower shall not (i) enter into, amend in any material respect (provided that Borrower shall provide Lender a copy of any amendments, whether or not material) or terminate any material agreement providing for the development, management, leasing or operation of the Leased Property (approval of any such other material agreement not to be unreasonably withheld by Lender); (ii) make any material amendment to the organizational documents of Borrower, in each case from the form thereof previously provided to Lender, except as otherwise permitted by this Agreement; (iii) engage in any transaction with any Affiliate of Borrower on other than fair market, arms'-length terms and conditions; (iv) suffer or permit any direct or indirect change in the ownership of Borrower; (v) incur any additional indebtedness; or (vi) purchase or lease any other property.

12. **REPORTING COVENANTS:**

(a) **Financial Information.** Throughout the Loan Term, Borrower shall deliver to Lender, as soon as available, but in no event later than ninety (90) days after Borrower’s fiscal year end, copies of the audited financial statements that Borrower provided to the City pursuant to the terms and conditions of the Ground Lease Agreement, with said copies being certified to the Lender, together with any other financial information reasonably requested by Lender from Borrower. In addition, as soon as available, but in no event later than forty-five (45) days after the end of each fiscal quarter, Borrower shall deliver to Lender such quarterly and other financial information consisting of and including, without limitation, an income and expense statement, a balance sheet, a cash flow statement, a rent roll and a covenant compliance certificate, all certified by an authorized officer of the Borrower. Except as otherwise agreed to by Lender, all such financial information shall be prepared in accordance with generally accepted accounting principles consistently applied.

(b) **Books and Records.** Borrower shall maintain complete books of account and other records for the Leased Property and for use of the proceeds of the Loan, and the same shall be available for inspection and copying by Lender upon reasonable prior notice.

(c) **Annual Budget.** Not later than December 1 of each year, Borrower shall provide to Lender for its review and approval a monthly cash flow budget for the Leased Property for the next succeeding calendar year, together with such backup information regarding the Leased Property as Lender may reasonably require, in form reasonably satisfactory to Lender. Any such budget approved by Lender shall be deemed to be an “Approved Budget.”

13. **EVENTS OF DEFAULT/REMEDIES:**

A. **Default.** The occurrence of any one or more of the following shall constitute an event of default (“Default”) under this Loan Agreement and the other Loan Documents:
a. **Monetary.** Borrower’s failure to pay when due any sums payable under the Note or any of the other Loan Documents which is not paid within ten (10) days after such payment is due; or

b. **Performance of Obligations.** Borrower’s failure to perform any covenant, agreement or obligation to be performed by Borrower under this Loan Agreement or the other Loan Documents (other than the monetary obligations in Section 13.A.a. immediately above), and such failure continues for a period of more than twenty (20) days after written notice thereof is given by Lender to Borrower or, if such default is not reasonably susceptible to cure within such twenty (20) day period, such longer period as is necessary (but not to exceed one hundred and twenty (120) days after such written notice), provided Borrower immediately commences and thereafter diligently prosecutes the cure (provided, however, that if a different notice and cure period is provided for the remedy of such failure in any of the other Loan Documents, the cure period for the remedy of such failure shall be the lesser period provided); or

c. **Use.** The prohibition, enjoining or interruption of Borrower’s right to occupy, use or lease any portion of the Leased Property for a continuous period of more than thirty (30) days except in connection with a casualty or condemnation; or

d. **Liens; Condemnation; Attachment.** (i) The recording of any claim of lien against any portion of the Leased Property and the continuance of such claim of lien for twenty (20) days after Borrower receives notice but not more than sixty (60) days after the creation of the lien, without discharge, satisfaction, or removal of record by bonding or provision for payment being made by Borrower; or (ii) the sequestration or attachment of, or any levy or execution upon any of the Leased Property and/or improvements thereon, any other collateral provided by Borrower under any of the Loan Documents, or any substantial portion of the other assets of Borrower, which sequestration, attachment, levy or execution is not released, expunged or dismissed prior to the earlier of thirty (30) days or the sale of the assets affected thereby; or

e. **Representations and Warranties.** The failure of any representation or warranty of Borrower in any of the Loan Documents as of the date made (or remade if applicable) and the continuation of such failure for more than ten (10) days after written notice to Borrower from Lender requesting that Borrower cure such failure; or

f. **Voluntary Bankruptcy; Insolvency; Dissolution.** (i) The filing of a petition by Borrower for relief under the Bankruptcy Code, or under any other present or future state or federal law regarding bankruptcy, reorganization or other debtor relief law; (ii) the filing of any pleading or an answer by Borrower in any involuntary proceeding under the Bankruptcy Code or other debtor relief law which admits the jurisdiction of the court or the petition’s material allegations regarding Borrower’s insolvency; (iii) a general assignment by Borrower for the benefit of
creditors; or (iv) Borrower applying for, or the appointment of, a receiver, trustee, custodian or liquidator of Borrower or any of its property; or

g. **Involuntary Bankruptcy.** The failure of Borrower to effect a full dismissal of any involuntary petition under the Bankruptcy Code or under any other debtor relief law that is filed against Borrower or in any way restrains or limits Borrower or Lender regarding the Loan or the Leased Property, prior to the earlier of the entry of any court order granting relief sought in such involuntary petition, or sixty (60) days after the date of filing of such involuntary petition; or

h. **Transfer of Assets.** The sale, assignment, pledge, hypothecation, mortgage or transfer of all or a substantial portion of assets, including without limitation, any of the Leased Property and/or improvements thereon, of Borrower other than in the ordinary course of business of said entity or as otherwise expressly permitted pursuant to the terms of the Lease or Loan Documents; or

i. **Single Purpose Entity Covenant.** If Borrower ceases to be a Single Purpose Entity as set forth in Section 11(h) hereof; or

j. **Change In Management or Control.** Except as otherwise permitted under the Ground Lease Agreement, the occurrence of any material management or organizational change in Borrower, including, without limitation, any member dispute which Lender determines, in its reasonable sole discretion, shall have a material adverse effect on the Loan, the Leased Property, or on the ability of Borrower to perform its obligations under the Loan Documents, excluding transfers of ownership interests in Borrower by members of Borrower to Affiliates, provided that Lender's prior written consent for such transfer has been obtained, or any other transfer permitted pursuant to Section 11(j) hereof; or

k. **Loss of Priority.** The failure at any time of the Leasehold Mortgage to be a valid first lien upon the Borrower's leasehold interest in the Leased Property or any portion thereof pursuant to Section 6 hereof, other than as a result of any release or reconveyance of the Leasehold Mortgage with respect to all or any portion of the Leased Property pursuant to the terms and conditions of this Loan Agreement; or

l. **Hazardous Materials.** The discovery of any significant Hazardous Materials in, on or about the Leased Property subsequent to the Effective Date hereof (except to the extent caused solely by the gross negligence or willful misconduct of the Lender) and/or failure to complete any remedied work required pursuant to Section 10.(b) d. hereof. Any such Hazardous Materials shall be "significant" for this purpose if said Hazardous Materials, in Lender's sole discretion, have a materially adverse impact on the value of the Leased Property; or

m. **Default Under Any Other Related Documents.** There shall exist a default (beyond any applicable notice or cure period) by Borrower or any other
person under any Other Related Document (including without limitation, the Ground Lease Agreement) or other Loan Documents; or

n. **Breach.** Failure by Borrower to comply with any of the covenants set forth in Sections 11 or 12 hereof;

B. **Acceleration Upon Default; Remedies.** Upon the occurrence of any Default specified in this Article, Lender may declare all sums owing to Lender under the Note, this Loan Agreement and the other Loan Documents immediately due and payable, regardless of any other specified maturity date, without notice of default, presentment or demand for payment protest or notice of nonpayment or dishonor, or other notices or demands of any kind or character, and without the necessity of prior recourse to any security; provided, however, that immediately upon the occurrence of a Default under Sections 13.A.f., g. or h, all such indebtedness and obligations of Borrower, together with interest thereon, shall automatically become immediately due and payable without any action on the part of Lender. Upon such acceleration, Lender may in addition to all other remedies permitted under this Loan Agreement and the other Loan Documents and at law or equity, apply any sums in any account of Borrower which has a security interest to the sums owing under the Loan Documents. Upon occurrence of a Default, any and all obligations of Lender to fund further disbursements under the Loan shall terminate.

C. **Disbursements To Third Parties.** Upon the occurrence of a Default occasioned by Borrower’s failure to pay money to a third party as required by this Agreement, Lender may but shall not be obligated to make such payment from other funds of Lender. Borrower shall immediately repay such funds upon written demand of Lender. In all events, the Default with respect to which any such payment has been made by Lender shall not be deemed cured until such repayment has been made by Borrower to Lender.

D. **Repayment of Funds Advanced.** Any funds expended by Lender in the exercise of its rights or remedies under this Agreement and the other Loan Documents shall be payable to Lender upon demand, together with interest from the date the funds were expended, at the rate applicable to the principal balance of the Note from the date the funds were expended until fully paid.

E. **Rights Cumulative, No Waiver.** All Lender’s rights and remedies provided in this Agreement and the other Loan Documents, together with those granted by law or at equity, are cumulative and may be exercised by Lender at any time. Lender’s exercise of any right or remedy shall not constitute a cure of any Default unless all sums then due and payable to Lender under the Loan Documents are repaid and Borrower has cured all other Defaults. No waiver shall be implied from any failure of Lender to take, or any delay by Lender in taking, action concerning any Default or failure of condition under the Loan Documents, or from any previous waiver of any similar or unrelated Default or failure of condition. Any waiver or approval under any of the Loan Documents must be in writing and shall be limited to its specific terms. The consent or approval by Lender to or of any act by Borrower requiring further consent or approval, shall not deemed to waive or render unnecessary consent or approval to or of any subsequent act.

F. **Other Remedies.** Upon the occurrence of any Default specified in this Section 12, Lender may, at its option, exercise any and all of Lender’s other rights and remedies under the Loan Documents, including, but not limited to, the right to take possession of
and foreclose on any security, and exercise any other rights with respect to any security, whether under the Loan Documents or any other agreement, or as provided by applicable Laws, all in such order and in such manner as Lender in its sole discretion may determine.

13. **MISCELLANEOUS PROVISIONS**

A. **Indemnity.** BORROWER HEREBY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS LENDER, AND ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, CLAIMS, ACTIONS, JUDGMENTS, COURT COSTS AND REASONABLE LEGAL OR OTHER EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND EXPENSES) WHICH LENDER MAY ACTUALLY INCUR AS A DIRECT OR INDIRECT CONSEQUENCE OF THE FOLLOWING (EXCEPT TO THE EXTENT THE SAME RELATE SOLELY TO THE GROSS NEGLIGENCE AND WILLFUL MISCONDUCT OF LENDER): (A) THE MAKING OF THE LOAN BY LENDER, EXCEPT FOR VIOLATIONS OF BANKING LAWS OR REGULATIONS BY SUCH LENDER; (B) THE PURPOSE TO WHICH BORROWER APPLIES THE LOAN PROCEEDS; (C) THE FAILURE OF BORROWER TO PERFORM ANY OBLIGATIONS AS AND WHEN REQUIRED BY THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS; (D) ANY FAILURE AT ANY TIME OF ANY OF BORROWER'S REPRESENTATIONS OR WARRANTIES TO BE TRUE AND CORRECT; (E) ANY ACT OR OMISSION BY BORROWER, ANY MEMBER OF BORROWER, ANY CONTRACTOR, SUBCONTRACTOR OR MATERIAL SUPPLIER, ENGINEER, ARCHITECT OR OTHER PERSON OR ENTITY WITH RESPECT TO THE PROPERTY OR IMPROVEMENTS; OR (F) ANY CLAIM OR CAUSE OF ACTION OF ANY KIND BY ANY PERSON TO THE EFFECT THAT ANY LENDER IS IN ANY WAY RESPONSIBLE FOR OR LIABLE FOR ANY ACT OR OMISSION BY BORROWER, WHETHER ON ACCOUNT OF ANY THEORY OF DERIVATIVE LIABILITY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY CLAIM OR CAUSE OF ACTION FOR FRAUD, MISREPRESENTATION, TORT OR WILLFUL MISCONDUCT BY BORROWER OR ANY AFFILIATE. BORROWER SHALL IMMEDIATELY PAY TO LENDER UPON DEMAND ANY AMOUNTS OWING UNDER THIS INDEMNITY, TOGETHER WITH INTEREST FROM THE DATE THE INDEBTEDNESS ARISES UNTIL PAID AT THE RATE OF INTEREST APPLICABLE TO THE PRINCIPAL BALANCE OF THE NOTE. BORROWER'S DUTY AND OBLIGATIONS TO DEFEND, INDEMNIFY AND HOLD HARMLESS LENDER, AND ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS SHALL SURVIVE CANCELLATION OF THE NOTE AND THE SATISFACTION, RELEASE, RECONVEYANCE OR PARTIAL RECONVEYANCE OF THE MORTGAGE.

With respect to matters indemnified under both Section 10.D. and under this Section 13 A., the provisions of Section 10.D. shall control.

B. **Form of Documents.** The form and substance of all documents, instruments, and forms of evidence to be delivered to Lender under the terms of this Loan
Agreement and any of the other Loan Documents shall be subject to Lender's approval, not to be unreasonably withheld, and shall not be modified, superseded or terminated in any respect without Lender's prior written approval, not to be unreasonably withheld.

C. **No Third Parties Benefited.** No person other than Lender and Borrower and their permitted successors and assigns shall have any right of action under any of the Loan Documents.

D. **Notices.** All notices, demands, consents, or other communications under this Loan Agreement and the other Loan Documents shall be in writing and shall be delivered to the appropriate party at the address set forth on the signature page of this Loan Agreement (subject to change from time to time by written notice to all other parties to this Agreement). All communications shall be deemed served upon delivery of, or if mailed, upon the first to occur of receipt or the expiration of three (3) days after the deposit in the United States Postal Service mail, postage prepaid and addressed to the address of Borrower or Lender at the address specified; provided, however, that non-receipt of any communication as the result of any change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication.

E. **Actions.** Borrower agrees that Lender, in exercising the rights, duties or liabilities of Lender or Borrower under the Loan Documents, may commence, appear in or defend any action or proceeding purporting to affect any portion of the Property or the Loan Documents and Borrower shall immediately reimburse Lender upon demand for all such expenses so incurred or paid by Lender, including, without limitation, attorneys’ fees and expenses and court costs.

F. **Right of Contest.** Borrower may contest in good faith any claim, demand, levy, lien or assessment by any person other than Lender which would constitute a Default if: (a) Borrower pursues the contest diligently, in a manner which Lender determines is not prejudicial to Lender, and does not impair the rights of Lender under any of the Loan Documents; and (b) Borrower deposits with Lender any funds or other forms of assurance which Lender in good faith determines from time to time appropriate to protect Lender from the consequences of the contest being unsuccessful, (including, without limitation, Borrower’s bonding over any lien). Borrower’s compliance with this Section shall operate to prevent such claim, demand, levy or assessment from becoming a Default.

G. **Delay Outside Lender's Control.** Lender shall not be liable in any way to Borrower or any third party for Lender's failure to perform or delay in performing under the Loan Documents (and Lender may suspend or terminate all or any portion of Lender's obligations under the Loan Documents) if such failure to perform or delay in performing results directly or indirectly from, or is based upon, the action, inaction, or purported action, of any governmental or local authority, or because of war, rebellion, insurrection, strike, lock-out, boycott or blockade (whether presently in effect, announced or in the sole judgment of Lender deemed probable), or from any Act of God or other cause or event beyond Lender's control.
H. **Attorneys' Fees and Expenses: Enforcement.** If any attorney is engaged by Lender to enforce or defend any provision of this Loan Agreement, any of the other Loan Documents or Other Related Documents, or as a consequence of any Default under the Loan Documents, with or without the filing of any legal action or proceeding, and including, without limitation, any fees and expenses incurred in any bankruptcy proceeding of the Borrower, then unless Borrower is the prevailing party in the applicable legal proceeding, Borrower shall immediately pay to Lender, upon demand, the amount of all reasonable attorney's fees and expenses and all costs incurred by Lender in connection therewith, together with interest thereon from the date of such demand until paid at the rate of interest applicable to the principal balance of the Note as specified therein.

I. **Immediately Available Funds.** Unless otherwise expressly provided for in this Agreement, all amounts payable by Borrower to Lender shall be payable only in United States currency, immediately available funds.

J. **Non-liability of Lender.** Borrower acknowledges and agrees that:

a. By accepting or approving anything required to be provided to Lender pursuant to the Loan Documents, including any certificate, financial statement, survey, appraisal or insurance policy, Lender shall not be deemed to have warranted or represented the sufficiency, effectiveness or legal effect of any term or provision thereof, and such acceptance or approval thereof shall not constitute a warranty or representation to anyone with respect thereto by Lender;

b. Lender neither undertakes nor assumes any responsibility or duty to Borrower to select, review, inspect, supervise, pass judgment upon or inform Borrower of any matter in connection with the Leased Property, except as otherwise expressly set forth in the Loan Documents;

c. The relationship of Borrower and Lender under the Loan Documents is, and shall at all times remain, solely that of borrower and lender, and Lender does not undertake or assume any responsibility or duty to Borrower or to any other Person with respect to the Leased Property or the Loan, except as expressly provided in the Loan Documents; and notwithstanding any other provision of the Loan Documents: (i) Lender is not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of Borrower or any Affiliate, and Lender does not intend to ever assume such status; and (ii) Lender shall not be deemed responsible for or a participant in any acts, omissions or decisions of Borrower or any Affiliate;

d. Lender shall not be directly or indirectly liable or responsible for any loss, claim, cause of action, liability, indebtedness, damage or injury of any kind or character to any Person or property arising from any construction on, or occupancy or use of, the Leased Property, whether caused by, or arising from: (i) any defect in any building, structure, grading, fill, landscaping or other improvements thereon or in any on site or off site improvement or other facility therein or thereon; (ii) any act or omission of Borrower, any Affiliates,
or any agents, employees, independent contractors, licensees or invitees of Borrower; (iii) any accident in or on the Leased Property or any fire, flood or other casualty or hazard thereon; (iv) the failure of Borrower, any of Borrower's licensees, employees, invitees, agents, independent contractors or other representatives to maintain the Leased Property in a safe condition; and (v) any nuisance made or suffered on any part of the Leased Property; provided, however, that the foregoing shall not apply to any loss, claim, cause of action, liability, indebtedness, damage or injury caused by the gross negligence or willful misconduct of Lender; and

e. Borrower shall be solely responsible for all aspects of Borrower's business and conduct in connection with the Leased Property.

K. Lender's Agents. Lender may designate an agent or independent contractor to exercise any of Lender's rights under this Loan Agreement and any of the other Loan Documents. Any reference to Lender in any of the Loan Documents shall include Lender's agents, employees or independent contractors. Borrower shall pay the costs of such agent or independent contractor either directly to such person or to Lender in reimbursement of such costs, as applicable.

L. Loan Sales and Participation: Disclosure of Information.

a. Borrower agrees that Lender may elect, at any time, to sell, assign or grant participation in all or any portion of its rights and obligations under the Loan Documents, and that any such sale, assignment or participation may be to one or more financial institutions, private investors, and/or other entities, at Lender's sole discretion ("Participant"). Borrower further agrees that Lender may disseminate to any such actual or potential purchaser(s), assignee(s) or participant(s) all documents and information (including, without limitation, all financial information) which has been or is hereafter provided to or known to Lender with respect to:

i. The Leased Property and its operation;

ii. Any party connected with the Loan (including, without limitation, the Borrower or any member of Borrower); and/or

iii. Any lending relationship other than the Loan which Lender may have with any party connected with the Loan. In the event of any such sale, assignment or participation, Lender and the parties to such transaction shall share in the rights and obligations of Lender as set forth in the Loan Documents only as and to the extent they agree among themselves.

b. In connection with any such sale, assignment or participation, Borrower further agrees that the Loan Documents shall be sufficient evidence of the obligations of Borrower to each purchaser, assignee, or participant, and upon written request by Lender, Borrower shall enter into such amendments or modifications to the Loan Documents as may be reasonably required in order to evidence any such sale, assignment or
participation (provided such modifications do not materially increase Borrower's obligations hereunder). The indemnity obligations of Borrower under the Loan Documents shall also apply with respect to any purchaser, assignee or participant.

M. Amendments and Waivers.

a. No amendment or modification of any provision of this Agreement shall be effective without the written agreement of Lender and Borrower;

b. No termination or waiver of any provision of this Agreement, or consent to any departure by Borrower therefrom, shall in any event be effective without the written concurrence of Lender, which Lender shall have the right to grant or withhold at its sole discretion; and

c. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Borrower in any case shall entitle Borrower to any other further notice or demand in similar or other circumstances.

N. Waiver of Right To Trial By Jury. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE MODIFICATION THEREOF OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THE LOAN DOCUMENTS (AS NOW OR HEREAFTER MODIFIED) OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THEREOF, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER Sounding IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

O. Severability. If any provision or obligation under this Loan Agreement and the other Loan Documents shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, that provision shall be deemed severed from the Loan Documents and the validity, legality and enforceability of the remaining provisions or obligations shall remain in full force as though the invalid, illegal, or unenforceable provision had never been a part of the Loan Documents, provided, however, that if the rate of interest or any other amount payable under the Note or this Loan Agreement or any other Loan Document, or the right of collectability therefor, are declared to be or become invalid, illegal or
unenforceable, Lender’s obligations to make advances under the Loan Documents shall not be enforceable by Borrower.

P. **Heirs, Successors and Assigns.** Except as otherwise expressly provided under the terms and conditions of this Loan Agreement, the terms of the Loan Documents shall bind and inure to the benefit of the heirs, successors and assigns of the parties.

Q. **Time.** Time is of the essence of each and every term of this Loan Agreement.

R. **Headings.** All article, section or other headings appearing in this Loan Agreement and any of the other Loan Documents are for convenience of reference only and shall be disregarded in construing this Loan Agreement and any of the other Loan Documents.

S. **Governing Law.** This Loan Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Florida, except to the extent preempted by federal laws. Borrower and all persons and entities in any manner obligated to Lender under the Loan Documents consent to the jurisdiction of any federal or state court within the State of Florida having proper venue and also consent to service of process by any means authorized by Florida or federal law.

T. **Integration; Interpretation.** The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. The Loan Documents shall not be modified except by written instrument executed by all parties. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Lender in writing.

U. **Further Assurances.** Borrower shall, at its sole cost and expense, do such further acts and execute and deliver such further documents as Lender from time to time may reasonably require for the purpose of assuring and confirming to Lender the rights hereby created, or for carrying out the intention or facilitating the performance of the terms of any Loan Document, or for assuring the validity of any lien under any Loan Document.

V. **Joint and Several Liability.** The liability of all persons and entities obligated in any manner under this Agreement and any of the Loan Documents shall be joint and several.

W. **Counterparts.** To facilitate execution, this document may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single document. It shall not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached
to another counterpart identical thereto except having attached to it additional signature pages.

If these conditions are acceptable to you, please indicate your acceptance by having authorized signatures affixed in the space provided below and return a fully executed copy to Lender.

[Signature] [Pages] [To] [Follow]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date above written.

LENDER:

HOLLYWOOD COMMUNITY RE-DEVELOPMENT AGENCY, a dependent special district of the City of Hollywood

By: [Signature]
Name: Peter Bober
Title: Chair

By: [Signature]
Name: Jorge A. Camejo
Title: Executive Director

ATTEST:

Phyllis Lewis, Board Secretary

Address of Lender:

330 North Federal Highway
Hollywood, FL 33020

BORROWER:

MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC, a Florida limited liability company

By: Hollywood Resort Partners, L.P.
Member

By: Lojeta-Millenium Group, LLC
Its: General Partner

By: Lon Tabatchnick
Its: Manager

By: Margaritaville of Hollywood, Florida, LLC
Member

By: John Cohlan
Its: Manager

Address of Borrower:

3501 N. Ocean Drive
Hollywood, FL 33019

APPROVED AS TO FORM & LEGALITY FOR THE USE AND RELIANCE OF THE HOLLYWOOD, FLORIDA COMMUNITY REDEVELOPMENT AGENCY, ONLY

Jeffrey P. Sheffiell, General Counsel
EXHIBIT "A"

(Composite)
PROMISSORY NOTE AND LEASEHOLD MORTGAGE
PROMISSORY NOTE

$10,000,000.00

_____________________, 2011

Hollywood, Florida

FOR VALUE RECEIVED, MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC, a Florida limited liability company (the "Borrower"), having an address at 3501 N. Ocean Drive, Hollywood, Florida 33019, as maker, jointly and severally, promises to pay to CITY OF HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY, a dependent special district of the City of Hollywood, Florida (the "Lender"), or order, the principal sum of Ten Million ($10,000,000.00) Dollars (the "Loan"), or so much thereof as shall from time to time be advanced under the terms of the Loan Agreement (hereinafter defined), together with interest thereon from the date of disbursement at the rate of five percent (5%) per annum. Interest shall be calculated on a basis of a 365-day year for actual days elapsed. Principal and interest shall be payable in lawful money of the United States, at

330 North Federal Highway
Hollywood, FL 33020
Attn: CRA Executive Director

or at such other place as the holder hereof may designate in writing, as follows:

Accrued interest shall be due and payable on the first day of each month commencing with the first day of the month following the Initial Funding Date.

The entire outstanding principal balance, together with all accrued and unpaid interest, shall become due and payable at the earlier of ten (10) years from Initial Funding Date (as defined below), the refinancing of the Loan, or the Transfer (as defined in the Mortgage (as defined below)) of the Borrower's leasehold interest in the Leased Property (as defined below) and Developer Improvements (as defined below) as permitted under the terms of the Ground Lease Agreement (as defined below) (the "Maturity Date").

The maker and any endorsers, sureties, guarantors, and all others who are, or may become, liable for the payment hereof severally:

a. waive presentment for payment, demand, notice of demand, notice of nonpayment, or dishonor, protest and notice of protest of this Note, and all other notices in connection with the delivery, acceptance, performance, default, or enforcement of the payment of this Note,

b. waive all applicable exemption rights, whether under the State Constitution, Homestead Laws or otherwise, and also waive valuation and appraisement.

c. consent to all extensions of time, renewals, postponements of time of payment of this Note or other modifications hereof, from time to time or after the maturity date.
hereof, whether by acceleration or in due course, without notice, consent or consideration to any of the foregoing,

d. agree to any substitution, exchange, addition or release of any of the security for the indebtedness evidenced by this Note, or the addition or release of any party or person primarily or secondarily liable hereon,

e. agree that the holder shall not be required first to institute any suit, or to exhaust its remedies against the Borrower or any other person or party to become liable hereunder against the security in order to enforce the payment of this Note,

f. agree that notwithstanding the occurrence of any of the foregoing (except by the express written release by the holder of any such person), Borrower shall be and remain jointly and severally directly and primarily liable for all sums due under this Note.

In addition to the payments of principal and interest required to be paid under the terms of this Note, if there be a default under the terms of this Note, the holder shall be entitled to recover from the maker all of the holder's costs of collection, including the holder's reasonable attorney's fees, whether for services incurred in collection, litigation, bankruptcy proceedings, appeals or otherwise, and all other costs incurred in connection therewith.

All payments required to be paid under the terms of this Note shall first be applied to costs that may be due from the maker to the holder, as aforesaid, and then shall be applied to interest due and owing and the remainder shall be applied to principal due and owing under the terms hereof.

This Note is secured by a Leasehold Mortgage and Security Agreement of even date herewith ("Mortgage") and reference is made to the Mortgage for additional rights as to the acceleration of the indebtedness evidenced by this Note. This Note may also be secured by a security agreement (which may be included in the Mortgage) and/or other security instruments in favor of the Lender and the aforesaid security agreement and any and all such other security instruments are herein collectively called the "Security Instruments." This Note is referred to in and is governed by the Loan Agreement. The Loan Agreement, among other things, contains provisions for the acceleration of the maturity hereof and for the payment of certain additional sums to Lender upon the happening of certain stated events. Terms used in this Note without definition have the same meanings as in the Loan Agreement.

As used herein,

"Leased Property" means the property defined as the Leased Property in the Ground Lease Agreement, as defined below.

"Developer Improvements" is defined in the Loan Agreement.

"Ground Lease Agreement" means that certain Development Agreement and Ground Lease between the City of Hollywood, Florida (the "City") and the Borrower dated [date].

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"Loan Agreement" means that certain Loan Agreement between Borrower and Lender dated __________, 2011.

"Initial Funding Date" means the date of first disbursement of proceeds of the Loan to the Borrower by Lender under this Note and Loan Agreement.

Borrower acknowledges that the loan evidenced by this Note and secured by the Mortgage and Security Instruments is made in reliance on the financial strength of the maker as well as on the strength of the property mortgaged and pledged by the Mortgage and Security Instruments. Accordingly, maker specifically acknowledges that, in the event of a foreclosure under the Mortgage and/or the realization of the other interests assigned, pledged and secured by the Security Instruments, the Lender shall be entitled to the entry of a deficiency judgment to the extent of any deficiency determined in accordance with applicable law.

A late fee of five (5%) percent of any payment required hereunder shall be imposed on each and every payment not received by the holder within fifteen (15) days after it is due. The late fee is not a penalty, but liquidated damages to defray administrative and related expenses due to such late payment. The late fee shall be immediately due and payable and shall be paid by the maker to the holder without notice or demand; provided, however, under no circumstances shall any such late fee be imposed which shall be in excess of the maximum legal interest rate chargeable under applicable law. This provision for a late charge is not and shall not be deemed a grace period, and Lender has no obligation to accept a late payment. The acceptance of a late payment shall not constitute a waiver of any default then existing or thereafter arising in this Note. Further, Lender’s failure to collect a late payment at any time shall not constitute a waiver of Lender’s right to thereafter, at any time and from time to time (including, without limitation, upon acceleration of this Note or upon payment in full of all sums evidence by this Note), collect such previously uncollected late payments or to collect subsequently accruing late payments.

Upon and after the occurrence of a Default (as that term is defined in the Loan Agreement), unless such Default is waived as provided in the Loan Agreement, this Note may, at the option of Lender and without further demand, notice or legal process of any kind, be declared by Lender immediately due and payable.

The maker and any endorsers, sureties, guarantors, and all other who are or who may become liable for the payment hereof, severally, irrevocably and unconditionally (a) agree that any suit, action or other legal proceeding arising out of or relating to this Promissory Note may be brought, at the option of the holder, in a court of record of the State of Florida, located in Broward County, Florida; (b) consent to the jurisdiction of such court in any such suit, action or proceeding; and (c) waive any objection which it or they may have to the laying of venue of any such suit, action or proceeding in such court.

In no contingency or event whatsoever shall interest charged in respect of the Loan evidenced hereby, however such interest may be characterized or computed, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable hereto. If such a court determines that Lender has received interest hereunder in excess of the highest rate applicable hereto, Lender shall, at Lender’s election, either (a) promptly refund such excess interest to Borrower or (b) credit such excess to
the principal balance hereof. This provision shall control over every other provision of all agreements between Borrower and Lender. In the event of the acceleration of this Note, the total charges for interest and in the nature of interest shall not exceed the maximum amount allowed by law, and any excess portion of such charges that may have been prepaid shall be refunded to the makers hereof at the time of acceleration. Such refund may be made by application of the amount involved against the sums due hereunder, but such crediting shall not cure or waive the default occasioning acceleration.

This Note may be prepaid in whole or in part at any time without notice, premium, or penalty. The payment of any such larger sums in addition to the payments herein required shall not relieve the maker of the payment of the periodic installments herein provided for, unless it is specifically stipulated by the maker at the time of payment that such larger sums are to be applied to the advance payment of the periodic installments next maturing in the order of their due dates.

After default, at the option of Lender, or after the Maturity Date this Note shall bear interest at a rate equal to five percent (5%) per annum above the highest annual prime rate in effect for corporate loans at large U.S. money center commercial banks (the "Defaut Rate"). All other amounts due Lender (whether directly or for reimbursement) under the Loan Agreement, this Note, the Mortgage, or any other documents evidencing and securing the Loan (collectively, the "Loan Documents") if not paid when due, or if no time period is expressed, if not paid within ten (10) days after demand, shall likewise, at the option of the Lender, bear interest from and after demand at the Default Rate.

This Note shall be construed, interpreted, enforced, and governed by in accordance with the laws of the State of Florida (excluding the principles thereof governing conflicts of law) and federal law in the event federal law permits a higher rate of interest than state law.

If any provision or portion of this Note is declared or found by a court of competent jurisdiction to be unenforceable or null and void, such provision or portion thereof shall be deemed stricken and severed from this Note and the remaining provisions and portions thereof shall continue in full force and effect.

All notices or other communications required or permitted to be given pursuant to this Note shall be given to the Borrower or Lender at the address and in the manner provided for in the Loan Agreement.

This Note may not be amended, changed or terminated orally.

THE MAKER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO TRIAL BY JURY IF ANY SUIT BE BROUGHT TO ENFORCE OR CHALLENGE THE VALIDITY OR ENFORCEMENT OF THIS NOTE OR THE FORECLOSURE OF THE MORTGAGE OR ANY OTHER SECURITY INSTRUMENTS EXECUTED TO FURTHER SECURE THE INDEBTEDNESS SECURED BY THE MORTGAGE. MAKER HEREBY AGREES AND CONSENTS TO THE RELIEF OF THE HOLDER OF THIS NOTE AND THE MORTGAGE FROM ANY STAY ORDER WHICH MIGHT BE ENTERED BY ANY COURT AGAINST THE HOLDER OF THIS NOTE AND THE MORTGAGE AND TO
ASSIST THE HOLDER OF THIS NOTE AND THE MORTGAGE IN OBTAINING SUCH RELIEF, AND, WITH REGARD TO THE FILING OF ANY BANKRUPTCY PROCEEDINGS UNDER CHAPTER 11,13 OR OTHERWISE, TO NOT MODIFY ANY OF THE TERMS OF THIS NOTE OR THE MORTGAGE, INCLUDING, WITHOUT LIMITATION, THE INTEREST RATE OR PAYMENT AMOUNTS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER TO MAKE THE LOAN EVIDENCED BY THIS NOTE AND SECURED BY THE MORTGAGE.

MARGARITAVILLE HOLLYWOOD,
BEACH RESORT, LLC, a Florida limited liability company

By: Hollywood Resort Partners, L.P., Member

By: Lojeta-Millenium Group, LLC

Its: General Partner

By: ____________________________
Lon Tabatchnick
Its: Manager

By: Margaritaville of Hollywood,
Florida, LLC
Member

By: ____________________________
John Cohlan
Its: Manager

THE PROPER FLORIDA DOCUMENTARY STAMP TAX HAS BEEN PAID AND THE PROPER DOCUMENTARY STAMPS HAVE BEEN AFFIXED TO THE MORTGAGE SECURING THIS NOTE.
LEASEHOLD MORTGAGE AND SECURITY AGREEMENT

THIS LEASEHOLD MORTGAGE AND SECURITY AGREEMENT (hereinafter called "Mortgage"), executed this ____ day of __________, 201__, by MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC, a Florida limited liability company (hereinafter called "Mortgagor" or "Borrower"), to CITY OF HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY, a dependent special district of the City of Hollywood, Florida, Broward County, Florida (together with its successors and/or assigns hereinafter called "Mortgagee" or "Lender").

WITNESSETH:

That for divers good and valuable considerations, and also in consideration of the aggregate sum named in that certain Promissory Note of even date herewith, in the original principal amount of ($10,000,000.00) Dollars (the "Loan") (said Promissory Note and all renewals, replacements and substitutions thereof are hereinafter called the "Note"), and in further consideration of any and all sums due, or which may become due from the Mortgagor to the Mortgagee, the Mortgagor does hereby mortgage, grant, bargain, sell, alien, remise, release, convey and confirm unto the Mortgagee, its successors and assigns forever:

THE PROPERTY

a) The Land. The interest of Mortgagor as lessee under that certain Development Agreement and Ground Lease (the "Ground Lease") between the City of Hollywood, Florida (the "City") as lessor and the Borrower dated December ____, 2010, and the Ground Lease or a memorandum thereof intended to be recorded in the Public Records of Broward County, Florida, prior to the recording of this Mortgage, in all of that certain tract of land (hereinafter called the "Land"), of which Mortgagor is now in actual possession, situate in Broward County, Florida, and described in Exhibit A attached hereto and made a part hereof.

b) The Improvements and Fixtures. The interest of Mortgagor in all buildings and improvements of every kind and description now or hereafter erected or placed on the Land and all materials intended for construction, reconstruction, alteration, and repair of such buildings and improvements, and all fixtures now or hereafter attached to, contained, located on or used in
connection with the Land, including, but not limited to, all machinery, motors, elevators, fittings, radiators, awnings, shades, screens, and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air conditioning, and sprinkler equipment and fixtures and appurtenances thereto. (The Land together with the foregoing described improvements and fixtures are hereinafter referred to as the "Premises.")

c) Personal Property. The interest of Mortgagor in all items of furniture, furnishings, equipment and other tangible personal property located on and used or useful in the operation of the Premises (the "Personal Property").

All renewals or replacements of the foregoing or articles in substitution therefor, whether or not the same are or shall be attached to the aforesaid buildings or improvements in any manner; it being mutually agreed, intended, and declared that all the aforesaid Personal Property placed by the Mortgagor on the Land or used in connection with the operation or maintenance of the Premises shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and for the purpose of this Mortgage to be real estate, and covered by this Mortgage. (The Premises together with the foregoing described Personal Property are hereinafter referred to as the "Mortgaged Premises.")

d) Other Interests. All and singular the tenements, hereditaments and appurtenances belonging unto the Mortgaged Premises as heretofore described and conveyed or in anywise thereunto appertaining, together with any and all rents, issues and profits thereof and also all the estate, right, title, interest, and all claim and demand whatsoever, as well in law as in equity, of Mortgagor in and to the same, including, but not limited to:

i) All of the water, sanitary and storm sewer systems which are now or hereafter located by, over, and upon the Land, or any part thereof, and which water system includes all water mains, service laterals, hydrants, valves and appurtenances, and which sewer systems includes all lift stations and sewer lines, including mains, laterals, manholes and appurtenances; and

ii) All paving for streets, roads, walkways or entrance ways which are now or hereafter located on the Land or any part thereof; and

iii) All rents, issues, profits, revenues, royalties, rights and benefits derived from the Mortgaged Premises from time to time, whether accruing under leases or tenancies now existing or hereafter created, but reserving to the Mortgagor, however, so long as the Mortgagor is not in default hereunder, the right to receive and retain the rents, issues and profits subject to the restrictions hereinafter set forth; and

iv) All of the right, title and interest of the Mortgagor in and to all unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter required pursuant to the terms of this Mortgage, and all proceeds or sums payable under such policies for any loss or damage insured against thereunder; and
v) All of Mortgagor's right, title and interest in and to any and all contracts, written or oral, express or implied, in any matter related to the improvement, use, operation, sale or other disposition (voluntary or involuntary) of the Mortgaged Premises or any portions thereof, including any and all deposits and other payments due thereunder, but reserving to the Mortgagor, however, so long as Mortgagor is not in default hereunder, the use and benefit of all such contracts, deposits and payments; and

vi) All of the right, title and interest of the Mortgagor in and to all monies on deposit or in escrow accounts established or accrued pursuant to this Mortgage or established in connection with the Mortgaged Premises; and

vii) All causes of action of Mortgagor relating to the Mortgaged Premises and all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Mortgaged Premises or any part thereof under the power of eminent domain or other government taking, or for any damage (whether caused by such taking or otherwise) to the Mortgaged Premises or any part thereof, or to any rights appurtenant thereto; and

viii) All of the right, title and interest of the Mortgagor in and to any trade names, names of businesses or fictitious names, if any, used in conjunction with the Mortgaged Premises or any part thereof; and

ix) All of the Mortgagor's interest in all utility security deposits or bonds for the Mortgaged Premises or any part thereof; and

x) All building permits (to the extent permitted by applicable law), and all other rights, licenses, permit and agreements relating to the Mortgaged Premises; and

xi) All amendments, modifications, additions, supplements and substitutions to the foregoing and all proceeds from the voluntary or involuntary conversion of same.

(The Mortgaged Premises together with everything referred to in foregoing paragraph D and any additional property hereafter acquired by Mortgagor and subject to the lien of this Mortgage or intended to be so are hereinafter referred to as the "Property.")

TO HAVE AND TO HOLD all and singular the Property as heretofore described and conveyed, the tenements, hereditaments and appurtenances thereunto belonging or in anywise thereunto appertaining (whether any of the foregoing now exist or subsequently arise), and the reversions and reversions, including any reversionary interest in any roads or streets, and any and all riparian rights, contract and development rights relating to the Property or any portion thereof, and any and all rights in any easements benefitting and servicing the Property or any portions thereof, remainder and remainders, and also the estate, right, title, interest, property, possession, claim or demand whatsoever as well in law as in equity of the said Mortgagor in and to the same and in every part and parcel thereof unto the said Mortgagee, for the duration of the Ground Lease Term.
And the Mortgagor hereby covenants with the Mortgagee, that the Mortgagor is the sole owner and holder of the entire lessee's interest in the Ground Lease and the leasehold estate created thereby, that the Mortgagor has full power and lawful right to convey the same in as aforesaid; that it shall be lawful for the Mortgagee at all times peaceably and quietly to enter upon, hold, occupy and enjoy the Property and every part thereof; that the Property is free from all encumbrances; that the Mortgagor will make such further assurances to perfect the said title to the Property in the Mortgagee, as may reasonably be required; and that the Mortgagor does hereby fully warrant the title to the Property and every part thereof and will defend the same and the validity and priority of this Mortgage against the lawful claims of all persons whomsoever.

PROVIDED, ALWAYS, that if the Mortgagor shall pay unto the Mortgagee any and all indebtedness due by Mortgagor to said Mortgagee, including the indebtedness evidenced by the Note, and shall perform, comply with and abide by each and every one of the stipulations, agreements, conditions and covenants of said Note and of this Mortgage, then this Mortgage and the estate thereby created shall cease and be null and void.

AND, the Mortgagor hereby represents and warrants to and covenants and agrees with Mortgagee as follows:

- **Payments.**

To pay all and singular the principal and interest and the various and sundry sums of money, payable by virtue of the above described Note, and this Mortgage, and any and all renewals of the same, or any part thereof, and also any and all other loans and/or advancements which may be made by the Mortgagee to Mortgagor, promptly on the days respectively that same severally become due.

To pay all obligations, encumbrances, taxes, assessments, levies, liabilities, or liens, now or hereafter levied or imposed upon or against the Property or any part thereof and shall deliver to the Mortgagee, on or before March 1 of each year, tax receipts evidencing the payment of all ad valorem taxes upon the Property for the then current calendar year, and to deliver to Mortgagee receipts evidencing the payment of all other obligations, encumbrances, assessments, levies, or liens, within thirty (30) days after same become due and payable or before same shall become delinquent, whichever is sooner. If any of the foregoing charges or any part thereof are not paid, as aforesaid, the Mortgagee, at any time, may pay same with accrued interest and charges, if any, without waiving or affecting Mortgagee's option to foreclose this Mortgage or to exercise any other right or remedy of Mortgagee hereunder or available at law or in equity, and every such payment by Mortgagee shall bear interest from the date thereof at a rate equal to five percent (5%) per annum above the highest annual prime rate in effect for corporate loans at large U.S. money center commercial banks (the "**Default Rate**"), and all such payments, with interest thereon, shall be secured by the lien of this Mortgage.

To pay all and singular the costs, charges and expenses, including lawyers' fees and abstract costs reasonably incurred or paid at any time by the Mortgagee because of the failure on the part of the Mortgagor to perform, comply with and abide by each and every one of the stipulations,
agreements, conditions, and covenants of the Note and this Mortgage, or either, and every such payment shall bear interest from date thereof until paid at the Default Rate.

**Performance.** To perform, comply with and abide by, each and every one of the stipulations, agreements, conditions, and covenants set forth in the Note, this Mortgage, the Loan Agreement between Mortgagor as Borrower and Mortgagee as Lender dated December __, 2010 (the “Loan Agreement”) and all other Loan Documents (as that term is defined in the Loan Agreement).

**Ground Lease.** Mortgagor is the lessee under the Ground Lease. Mortgagor has delivered to Mortgagee a true copy of the Ground Lease and all amendments and modifications thereof and neither Mortgagor nor, to Mortgagor's knowledge, the City (as lessor) is in default thereunder. Mortgagor shall duly and timely observe, perform and discharge, or cause to be observed, performed, and discharged, all of the obligations and undertakings of Mortgagor (and all of its agents) under the Ground Lease and will do all things necessary to keep unimpaired its right in and to the leasehold estate created by the Ground Lease. Mortgagor agrees to notify Mortgagee promptly of default by any party under the Ground Lease and deliver to Mortgagee copies of any written notice of default received or sent by Mortgagor. Upon receipt by Mortgagee of any such default notice, Mortgagee may rely thereon even though the existence of such default or the nature thereof may be questioned or denied by Mortgagor or by any party on behalf of Mortgagor. Mortgagor shall not, without the prior written consent of Mortgagee, agree to the surrender, cancellation, or modification of the Ground Lease or subordination of the Ground Lease to any mortgage or other interest. Any such surrender, cancellation, modification, or subordination of the Ground Lease made without such consent shall be void. At the reasonable request of Mortgagee, Mortgagor shall, from time to time, obtain estoppel certificates from the City as lessor. Mortgagor agrees that in the event the Mortgagor acquires any additional interest in the real estate and personal property that is subject to the Ground Lease, the Ground Lease shall not be extinguished by merger and the lien of this mortgage shall extend to and include such interest.

If Mortgagor fails to observe, perform or discharge any obligation or undertaking of Mortgagor under the Ground Lease, then Mortgagee may on behalf of Mortgagor, but without obligation to do so, and without notice to and demand upon Mortgagor, and without releasing Mortgagor from any obligations and without waiving any Event of Default hereunder, take any action Mortgagee deems necessary or desirable to prevent or cure any such default by Mortgagor, including, but without limitation, the right to pay any and all rental payments, insurance premiums, taxes and assessments and other sums due or to become due under the Ground Lease. Mortgagor hereby expressly grants to Mortgagee and agrees that Mortgagee and its agents shall have the absolute and immediate right to enter upon the land and the improvements or any part thereof to such extent and as often as Mortgagee in its sole discretion deems necessary or desirable in order to prevent or cure any such default by Mortgagor. All payments and all costs and expenses incurred by Mortgagee in connection with any such prevention or cure (including, without limitation, reasonable attorneys' fees and expenses), together with interest thereon at the Default Rate set forth in the Note from the date incurred by Mortgagee, shall be secured by this Mortgage and shall be due and payable by Mortgagor immediately, whether or not there be notice, demand, an attempt to collect same, or suit pending.

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Insurance and Casualty. Anything contained in this Mortgage to the contrary notwithstanding, Mortgagor shall at all times during the term of this Mortgage and any extensions and/or renewals thereof, maintain property insurance, comprehensive general liability insurance, or such other insurance on the Property (and any and all improvements located thereon) as may be required under the Ground Lease, under the same terms and conditions as set forth therein. In the event of a conflict or inconsistency with the provisions of this Mortgage, the terms and conditions of the Ground Lease shall prevail.

Mortgagor will preserve and maintain the Property in good condition and repair and will obtain, maintain and keep in full force and effect all risk hazard insurance with respect to the Property, which said insurance shall reflect coverage in such amounts as the Mortgagee may require, but in no event less than one hundred (100%) percent of the full replacement cost (before co-insurance) of the Property (excluding the Land) and which insurance shall include, without limitation, a mortgage clause naming the Mortgagee as mortgagee and loss payee, a replacement cost endorsement, a stipulated value/agreed amount endorsement, flood insurance to meet the requirements of the National Flood Insurance Act of 1968, and such other coverages as Mortgagee may request. Such policy shall provide that any and all loss payments thereunder shall be payable to Mortgagee alone and not jointly with Mortgagor. In addition, consequential and resulting losses from an insured peril shall also be covered. Mortgagor shall also maintain general comprehensive public liability insurance against claims for bodily injury, death and property damage occurring in, on or about the Property in such amounts as may be required by Mortgagee.

All policies of insurance required hereunder shall be written by carriers approved by Mortgagee, shall provide that Mortgagee receive thirty (30) days prior written notice from the insurer before a cancellation, modification, material change, or non-renewal of the policy becomes effective and shall be written without a deductible provision unless otherwise agreed by Mortgagee and for such amounts as are sufficient to prevent the Mortgagor from becoming a co-insurer thereunder. Mortgagor shall submit proof on an annual basis that all insurance required herein is current and paid in full. At all times during the term of this Mortgage, Mortgagor shall deliver to Mortgagee, within ten (10) days of request of same by Mortgagee, the original (or a certified copy) of all policies of insurance required hereunder, together with receipts that the premiums therefor have been paid. The first such copy shall be delivered to the Mortgagee on or before the initial funding of the loan secured by this Mortgage. Mortgagee, if it deems necessary, may place and pay for any and all insurance as aforesaid, or any part thereof, without losing, waiving, or affecting Mortgagee's right to foreclose this Mortgage or to exercise any other remedy or right of Mortgagee hereunder and every such payment shall bear interest from the date thereof until paid at the Default Rate, and all such payments with interest thereon, as aforesaid, shall be secured by the lien of this Mortgage.

If all or any part of the Property shall be destroyed or damaged by a casualty, Mortgagor shall immediately give written notice thereof to Mortgagee. The disposition of all proceeds of insurance will be governed by the following:
The payment and application of proceeds of insurance shall be governed by the Ground Lease in the event of any conflict or inconsistency with the provisions of this Mortgage;

In the case of such a destruction of the improvements to the Property that the Mortgagor and the City determine that the Ground Lease will not be terminated, all proceeds of the insurance will be paid to Mortgagor;

In the event that the Mortgagor and the City determine that the Ground Lease will be terminated after casualty, then the proceeds of insurance will be applied first to the payment of all indebtedness evidenced by the Note, together with interest thereon, as well as all other indebtedness, liabilities and obligations of Mortgagor to Mortgagee, including, without limitation, all future advances made under this Mortgage and all sums of money as hereinafter provided in such order as Mortgagee may elect, and second, as provided in the Ground Lease.

Care and Use of Property.

Mortgagor will preserve and maintain the Property in good condition and repair and will not permit, commit or suffer any waste, impairment or deterioration of the Property or any part thereof.

Mortgagor will promptly and diligently comply with all present and future laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the Property and all private easements and restrictive covenants affecting the Property and will utilize its best efforts to cause all other parties in possession to comply with same.

Mortgagor warrants that all applicable zoning laws, ordinances and regulations affecting the Property permit the use and occupancy thereof in the manner currently employed.

Expenses. In any foreclosure proceedings instituted by Mortgagee, Mortgagee shall be entitled to collect under such proceedings all expenses of foreclosure, including but not limited to reasonable attorneys' fees incurred at all levels and costs of documentary evidence, abstracts and title reports.

Successors. In the event the ownership of the Property, or any part thereof, becomes vested in a person other than the Mortgagor, as may be permitted under the terms and conditions of the Ground Lease, the Mortgagee may, without notice to the Mortgagor, deal with such successor or successors in interest with reference to this Mortgage and the debt hereby secured, in the same manner as with the Mortgagor without in any way vitiating or discharging the Mortgagor's liability hereunder or upon the debt hereby secured. No sale of the Property hereby mortgaged and no forbearance on the part of the Mortgagee, and no extension of time for the payment of the debt hereby secured given by the Mortgagee shall operate to release, discharge, modify, change or affect the original liability of the Mortgagor herein either in whole or in part.

Renewals. The lien of this Mortgage secures and shall continue to secure payment of all indebtedness of Mortgagor, to Mortgagee, however evidenced, whether by the Note or any
renewal or extension thereof or substitute therefor or otherwise, until all such indebtedness shall have been fully paid.

Condemnation.

- The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or any part thereof, or for conveyance in lieu of condemnation ("Condemnation Proceeds"), will be governed by the following:

  - The payment and application of Condemnation Proceedings shall be governed by the Ground Lease in the event of any conflict or inconsistency with the provisions of this Mortgage;

  - In the case of such a taking that the Mortgagor and the City determine that the Ground Lease will not be terminated, all Condemnation Proceedings will be paid to Mortgagor; and

  - In the event that the Mortgagor and the City determine that the Ground Lease will be terminated after condemnation or a conveyance in lieu of condemnation, then the Condemnation Proceedings will be applied first to the payment of all indebtedness evidenced by the Note, together with interest thereon, as well as all other indebtedness, liabilities and obligations of Mortgagor to Mortgagor, including, without limitation, all future advances made under this Mortgage and all sums of money as hereinafter provided in such order as Mortgagor may elect, and second, as provided in the Ground Lease.

Mortgagor shall promptly and diligently restore and repair any physical damage to the Property or any part thereof resulting from any condemnation in a manner reasonably satisfactory to Mortgagor.

In the event it becomes necessary for the Mortgagor to employ counsel to protect its interest in any condemnation proceedings, the Mortgagor shall reimburse the Mortgagor for all reasonable attorney's fees thus incurred, and all such amounts shall be payable upon notice from Mortgagor to Mortgagor requesting payment thereof and shall be borne interest from the date of disbursement at the Default Rate, and all such payments with interest thereon, as aforesaid, shall be secured by the lien of this Mortgage.

Liens. Mortgagor will not directly or indirectly, voluntarily or involuntarily, suffer, allow or permit any consensual or nonconsensual or statutory or judicial lien to attach to the real, personal or intangible personal property encumbered by this Mortgage.

Events of Default. The term "Events of Default," wherever used in this Mortgage, shall mean any one or more of the following events:

Failure of Mortgagor to pay any installment of interest, principal or any other payment required to be paid by this Mortgage, the Note, Loan Agreement, or any other Loan Document within ten (10) days after same becomes due; or
Failure of Mortgagor to fully observe, perform, comply with and abide by each and every other stipulation, agreement, condition and covenant of this Mortgage, the Note, the Loan Agreement, or any other Loan Document, or any other security instrument given hereunder on the date on which any such stipulation, agreement, condition or covenant is required to be observed, performed, complied with or abided by; provided, however, that Mortgagor shall be entitled to written notice of default and twenty (20) days opportunity to cure upon Mortgagor’s failure to perform any covenant, agreement, or obligation to be performed by Mortgagor under this Mortgage, the Note, the Loan Agreement, or the other Loan Documents other than the payment of principal or interest to Mortgagee, or if such default is not reasonably susceptible to cure within such twenty (20) day period, such longer period as is necessary (but not to exceed one hundred and twenty (120) days from such written notice), provided Mortgagor immediately commences and thereafter diligently prosecutes the cure (provided, however, that if a different notice and cure period is provided for the remedy of such failure in any of the other Loan Documents, the cure period for the remedy of such failure shall be the lesser period provided) or

Failure of Mortgagor to pay, as and when due and payable, all indebtedness of Mortgagor to Mortgagee under any other note, mortgage, security agreement, other instrument evidencing or securing any other loan or obligation of Mortgagor to Mortgagee or to duly observe, perform, comply with, and abide by, any of the other stipulations, agreements, conditions and covenants of any such note, mortgage, security agreement or other instrument, and the continuation of such default beyond any applicable grace period set forth in such note, mortgage, security agreement or other instrument; provided, however, that Mortgagor shall be entitled to written notice of default and twenty (20) days opportunity to cure upon Mortgagor’s failure to perform any covenant, agreement, or obligation to be performed by Mortgagor under this Mortgage, the Note, the Loan Agreement, or the other Loan Documents other than the payment of principal or interest to Mortgagee, or if such default is not reasonably susceptible to cure within such twenty (20) day period, such longer period as is necessary, provided Mortgagor immediately commences and thereafter diligently prosecutes the cure (provided, however, that if a different notice and cure period is provided for the remedy of such failure in any of the other Loan Documents, the cure period for the remedy of such failure shall be the lesser period provided); or

Failure of Mortgagor to discharge of record any statutory or judicial lien which attaches to the real, personal or intangible personal property encumbered by this Mortgage within thirty (30) days following such attachment; or

The occurrence of a default under any mortgage or security agreement encumbering the Property or any interest therein or part thereof and the continuation of such default beyond any applicable grace period set forth in such mortgage or security agreement; or

The institution of foreclosure proceedings as to any mortgage or other lien encumbering the Property, whether superior or junior to the lien of this Mortgage; or

If any person should obtain an interest in all or any part of the Property, pursuant to the execution or enforcement of any lien, security interest or other right, whether superior, equal or subordinate to this Mortgage or the lien hereof; or
If Mortgagor or any guarantor of the indebtedness secured by this Mortgage or any part thereof (hereinafter referred to as a "Guarantor") shall (a) voluntarily file a petition under the federal bankruptcy acts or under any state bankruptcy or insolvency act or an answer in an involuntary proceeding admitting insolvency or inability to pay debts, (b) of if Mortgagor or any Guarantor shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Mortgagor or such Guarantor, (c) or if Mortgagor or any Guarantor shall be adjudged bankrupt or insolvent, (d) or if a trustee or receiver shall be appointed for the Property or any substantial part of the other property of the Mortgagor or any Guarantor, (e) or if Mortgagor or any Guarantor shall make an assignment for the benefit of the creditors of the Mortgagor or such Guarantor, (f) or if Mortgagor or any Guarantor makes an admission in writing of its inability to pay its debts as they become due; or

The passage of any law changing in any way or respect the laws now in force for the taxation of mortgages or debts secured thereby for any purpose, or the manner of collection of any such taxes, so as to adversely affect this Mortgage or the indebtedness secured hereby or the Mortgagor in any other manner whatsoever; or

The breach of any warranty or any untruth of any representation of Mortgagor contained in this Mortgage, the Note, Loan Agreement, or any other Loan Document.

Acceleration. If an Event of Default shall have occurred, Mortgagee may, at its sole option, declare the entire indebtedness evidenced by the Note, together with all other sums owed by Mortgagor to Mortgagee to be due and payable in full as fully and completely as if the said aggregate sum of said indebtedness was originally stipulated to be paid in full on such date, anything in the Note or this Mortgage to the contrary notwithstanding. Upon acceleration of the indebtedness as herein provided, the aggregate sum of said indebtedness shall thereafter continue to bear interest at the Default Rate as set forth in the Note and said indebtedness with interest thereon, as aforesaid, shall continue to be secured by the lien of this Mortgage.

If an Event of Default shall have occurred:

Enforcement. Mortgagee may, at its sole option, either with or without entry or taking possession as herein provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy (a) to enforce payment of the Note or the performance of any term hereof or of any other right, remedy, or power hereunder, (b) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Property, under the judgment or decree of a court or courts of competent jurisdiction, and (c) to pursue any other right, power or remedy available to the Mortgagee, all as the Mortgagee shall deem most effectual for such purposes. The Mortgagee shall take action either by proceedings or by the exercise of its powers with respect to entry or taking possession, as the Mortgagee may determine.

Receiver. Mortgagee may apply to any court of competent jurisdiction to have a receiver appointed to enter upon and take possession of the Property, collect the rents therefrom and apply the same as the court may direct, such receiver to have all of the rights and powers permitted under the laws of the State of Florida. The right of the appointment of such receiver
shall be a matter of strict right without regard to the value or the occupancy of the Property or the solvency or insolvency of Mortgagor. The expenses, including receiver’s fees, attorneys’ fees, costs and agent’s commission incurred pursuant to the powers herein contained, together with interest thereon at the Default Rate set forth in the Note, shall be secured hereby and shall be due and payable by Mortgagor immediately without notice or demand. Notwithstanding the appointment of any receiver or other custodian, Mortgagor shall be entitled as pledgee to the possession and control of any cash or deposits at the time held by, payable, or deliverable under the terms of this Mortgage to the Mortgagor, and the Mortgagor shall have the right to offset the unpaid obligations against any such cash or deposits in such order as Mortgagor may elect.

**Remedies as to Personal Property.** Mortgagor may exercise any or all of its rights and remedies under the Uniform Commercial Code-Secured Transactions as adopted by the State of Florida or other applicable law as well as all other rights and remedies possessed by Mortgagor, all of which shall be cumulative. Mortgagor is hereby authorized and empowered to enter the Land and improvements or other place where the Personal Property may be located without legal process, and to take possession of the Personal Property without notice or demand, which hereby are waived to the maximum extent permitted by the laws of the State of Florida. Upon demand by Mortgagor, Mortgagor shall make the Personal Property available to Mortgagor at a place reasonably convenient to Mortgagor. Mortgagor may sell at one or more public or private sales and for such price as Mortgagor may deem commercially reasonable, any and all of the Personal Property secured by this Mortgage, and any other security or property held by Mortgagor and Mortgagor may be the purchaser of any or all of the Personal Property.

**Mortgagor's Right of Possession in Case of an Event of Default.** In any case in which, under the provisions of this Mortgage, the Mortgagor has a right to institute foreclosure proceedings whether or not the entire principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of Mortgagor, Mortgagor shall surrender to Mortgagor and Mortgagor shall be entitled to take actual possession of the Property, or any part thereof, personally or by its agent or attorneys, as for condition broken and Mortgagor, in its discretion, may enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records, papers and accounts of the Mortgagor or the then owner of the Property relating thereto, and may exclude the Mortgagor, its agents or servants, wholly therefrom and may, as attorney-in-fact or agent of the Mortgagor, or in its own name as Mortgagor and under the powers herein granted: (a) hold, operate, manage, and control the Property and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Property including actions for recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges, and powers herein granted at any and all times hereafter, without notice to the Mortgagor; (b) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (c) elect to disaffirm any lease or sublease made subsequent to this Mortgage or subordinated to the lien hereof; (d) extend or modify any then existing leases and make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to
lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness secured hereby and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Property are subject to the lien hereof and to be also binding upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (e) make all necessary or proper repairs, decorations, renewals, replacements, alterations, additions, betterments, and improvements to the Property as to Mortgagee may seem judicious; (f) to insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation, and management thereof; and (g) to receive all avails, rents, issues and profits of the Property.

Remedies Cumulative. No right, power or remedy conferred upon Mortgagee under this Mortgage or any other Loan Document shall be deemed exclusive of any other right power or remedy, but each such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power or remedy of Mortgagee under this Mortgage or any other Loan Document or now or hereafter existing at law or in equity or by statute.

Subrogation. To the extent of the Mortgagor's indebtedness to the Mortgagee described herein and/or secured hereby, the Mortgagee is hereby subrogated to the lien, or liens, and to the rights of the owners and holders thereof of each and every mortgage lien or other encumbrance on the Property or any part thereof which is paid and/or satisfied, in whole or in part, from proceeds of disbursements secured by the lien of this Mortgage. In addition, the respective liens of said mortgages, liens or other encumbrances, shall be preserved and shall pass to and be held by the Mortgagee herein as security for the indebtedness to the Mortgagee to the same extent that it would have been preserved and would have been passed to and been held by the Mortgagee had it been duly and regularly assigned, transferred, set over and delivered unto the Mortgagee by separate deed or assignment, notwithstanding the fact that the same may be satisfied and canceled of record.

Transfer and Further Encumbrances of the Property. It is understood and agreed by Mortgagor that as part of the inducement to Mortgagee to make the loan evidenced by the Note, Mortgagee has considered and relied on the creditworthiness and reliability of Mortgagor. Mortgagor covenants and agrees not to sell, convey, transfer, lease, enter into any management agreement, or further mortgage or otherwise encumber any interest in or any part of the Property (a “Transfer”) without the prior written consent of the Mortgagee which consent will not be unreasonably withheld or delayed. A contract for deed, or agreement for deed, or assignment of beneficial interest in any land trust, the assignment of the lessee's interest in the Ground Lease, or (if applicable) the sale, assignment or transfer of a majority of the membership interests in the Mortgagor or any Guarantor, to any other firm, partnership, corporation, individual or other entity, shall constitute a Transfer requiring consent of Mortgagee pursuant to the provisions of this paragraph. A Transfer of part of the Property due to a condemnation or conveyance in lieu of condemnation that does not materially and adversely affect the operation of the Property will not be deemed a prohibited Transfer or cause acceleration of the Note.
Waivers. The Mortgagee, at its option, may extend the time for the payment of all or any part of the indebtedness secured by this Mortgage, or reduce the payments thereon, or accept a renewal note or notes therefor, without the consent of any junior lien holder, and without the consent of the Mortgagor if the Mortgagor has parted with the title to said Property, and any such extension, reduction or renewal shall not release the Mortgagor or any endorser or guarantor from liability for such indebtedness, or affect the priority of this Mortgage over any junior lien, or impair the security hereof in any manner whatsoever.

Forbearance and Payments on Behalf of Mortgagor. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the subsequent exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this Mortgage. Further, in order to accelerate the maturity of the indebtedness hereby secured because of the failure of the Mortgagor to pay any tax, assessment, liability, obligation or encumbrance upon said Property, as herein provided, it shall not be necessary nor requisite that the Mortgagee shall first pay the same.

Hazardous Substances. Subject to the terms set forth in 20(j) below, Mortgagor warrants and represents to Mortgagee that to the best of Mortgagor's actual knowledge:

That neither Mortgagor nor any other person to the Mortgagor’s knowledge, after reasonable inquiry, has ever used the Property as a facility for the storage, treatment, or disposal of any "Hazardous Substances," as that term is hereinafter defined;

That the Property is now and at all times hereafter will continue to be in full compliance with all federal, state and local "Environmental Laws" (as that term is defined hereinafter), including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 USC § 9601, et seq., the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Public Law 99-499, 100 Stat. 1613, the Resource Conservation and Recovery Act ("RCRA"), 42 USC § 6901, et seq., the Florida Resource Recovery and Management Act, Section 403.701, et seq., Florida Statutes, the Pollutant Spill Prevention and Control Act, Sections 376.011-376.17 and 376.19-376.21, Florida Statutes, as the same may be amended from time to time and all ordinances, regulations, codes, plans, orders, and decrees now existing or in the future enacted, promulgated, adopted, entered or issued, both within and outside present contemplation of the Mortgagor and Mortgagee;

That (i) as of the date hereof there are no hazardous or toxic materials, substances, wastes or other environmentally regulated substances (including solids or gaseous products and any materials containing asbestos), the presence of which is limited, regulated or prohibited by any state, federal or local governmental authority or agency having jurisdiction over the Property, or which are otherwise known to pose a hazard to health or safety of occupants of the Property, located on, in or under the Property or used in connection therewith, or (ii) Mortgagor has fully disclosed to Mortgagee in writing the existence, extent and nature of any such hazardous or toxic material waste or other environmentally regulated substance, which Mortgagor is legally authorized and empowered to maintain on, in or under the Property or use in connection
thereof, and Mortgagor has obtained and will maintain all licenses, permits and approvals required with respect thereto, and is in full compliance with all of the terms, conditions and requirements of such licenses, permits and approvals;

That Mortgagor shall notify Mortgagee of any change in the nature or extent of any hazardous or toxic materials, substances or wastes maintained on, in or under the Property or used in connection therewith, and will transmit to Mortgagee copies of any captions, orders, notices or other material governmental or other communication received with respect to any other hazardous materials, substances, wastes or other environmentally regulated substances affecting the Property;

That Mortgagor is not aware of, nor has the Mortgagor nor any of its subsidiary or affiliated entities received notice of, any past, present or future events, conditions, circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent compliance or continued compliance with Environmental Laws or any ordinance, regulation, code, plan, order, decree, judgment, injunction, notice or demand letter issued, entered, promulgated or approved thereunder, or which may give rise to any common law or legal liability, or otherwise form the basis of any claim, action, demand, suit, proceeding, hearing, study or investigation, based on or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling, or the emission, discharge, release or threatened release into the environment, of any Hazardous Substance;

That there is no civil, criminal or administrative action, suit, demand, claim, hearing, notice or demand letter, notice of violation, investigation, or proceeding pending or threatened against Mortgagor or the Property, relating in any way to any Environmental Laws or any regulation, code, plan, order, decree, judgment, injunction, notice or demand letter issued, entered, promulgated or approved thereunder;

Mortgagor hereby agrees to indemnify, reimburse, defend and hold harmless Mortgagee, its officers, directors, employees, successors and assigns from and against all demands, claims, civil or criminal actions or causes of action, liens, assessments, civil or criminal penalties or fines, losses, damages, liabilities, obligations, costs, disbursements, expenses or fees of any kind or of any nature (including, without limitation, cleanup costs, attorneys' consultants' or experts' fees and disbursements and costs of litigation at trial and appellate levels) which may at any time be imposed upon, incurred by or asserted or awarded against Mortgagee directly or indirectly, resulting from: (a) any acts or activities of Mortgagor, its agents, employees or contractors, at, on or about the Property which contaminate air, soils, surface waters or groundwaters over, on or under the Property; (b) arising from or out of any Hazardous Substance on, in or under the Property; (c) pursuant to or in connection with the application of any Environmental Law to the acts or omissions of Mortgagor or any other person and any environmental damage alleged to have been caused, in whole or in part, by the transportation, treatment, storage, or disposal of any Hazardous Substance; or (d) arising from or in relation to the presence, whether past, present or future, of any Hazardous Substances on the Property;

Without limiting the foregoing, this indemnification provision specifically protects the Mortgagee against any claim or action from activities described in (a), (b), (c) or (d)
above, based in whole or in part upon any environmental statute, rule, regulation or policy, including but not limited to Chapters 403 and 376, Florida Statutes, the Florida Administrative Code, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 USC § 9601, et seq., as amended, the Resource Conservation and Recovery Act, 42 USC § 6901, et seq., and other laws, whether now in existence or enacted in the future.

Mortgagor's indemnification obligation hereunder shall be one of strict liability and shall be enforceable without regard to any fault or knowledge of Mortgagee with respect to any act or omission or condition or event which is the basis of the claim under such indemnification obligation. Mortgagor's obligation under this section shall not be limited to any extent by the term of the Note or other obligations secured hereby, and such obligation shall continue, survive and remain in full force and effect notwithstanding payment in full or other satisfaction or release of said Note (and other obligations secure hereby) and this Mortgage, or any foreclosure under this Mortgage, or any delivery of a deed in lieu of foreclosure. The provisions of this section shall be deemed to survive and continue in full force and effect after any foreclosure or other proceeding by which the Mortgagee, and its successors and assigns succeed to ownership of the Property.

As used herein, "Environmental Law" means any federal, state, or local statutory or common law relating to pollution or protection of the environment, including without limitation, any common law of nuisance or trespass, and any law or regulation relating to emissions, discharges, releases or threatened releases of Hazardous Substances into the environment (including without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances.

As used herein, "Hazardous Substance" means any substance or material (i) identified in Section 101(14) of CERCLA, 42 USC § 9601(14), as the same may be amended from time to time, or (ii) determined to be toxic, a pollutant or contaminant, under federal, state or local statute, law, ordinance, rule or regulation or judicial or administrative order or decision, as same may be amended from time to time, including but not limited to petroleum and petroleum products as defined in Sec. 376.301(10), Florida Statutes, as same may be amended from time to time.

Mortgagee shall have the right, in its sole discretion, to require Mortgagor to periodically (but not more frequently than annually unless an Environmental Complaint is then outstanding) perform (at Mortgagor's expense) an environmental audit and, if deemed necessary by Mortgagee, an environmental risk assessment, each of which must be satisfactory to Mortgagee in its sole discretion, of the Property, hazardous waste management practices and/or hazardous waste disposal sites used by Mortgagor if Mortgagee shall have reasonable grounds to believe that a release of a Hazardous Substance has occurred on or from the Property. Such audit and/or risk assessment must be by an environmental consultant satisfactory to Mortgagee. Should Mortgagor fail to perform such environmental audit or risk assessment within thirty (30) days of the Mortgagee's written request, Mortgagee shall have the right but not the obligation to retain an environmental consultant to perform such environmental audit or risk assessment. All costs and expenses incurred by Mortgagee in the exercise of such rights shall bear interest at the Default
Rate set forth in the Note and shall be secured by this Mortgage and shall be payable by 
Mortgagor upon demand or charged to Mortgagor’s loan balance at the discretion of the 
Mortgagee.

Any breach of any warranty, representation or agreement contained in this paragraph 0, shall be 
a Default hereunder and shall entitle Mortgagee to exercise any and all remedies provided in this 
Mortgage, or otherwise permitted by law.

Mortgagee acknowledges that Mortgagor is leasing the Land from the City of Hollywood, 
Florida (the “City”), and that Mortgagee is a dependent special district of the City. For this 
reason the provisions of this paragraph 0 shall not apply to any Hazardous Substances present at 
the Property as of the commencement of the Ground Lease.

**Security Interest.** As to any of the property described in this Mortgage which 
(notwithstanding the declaration and agreement hereinbefore set forth) does not form a part and 
parcel of the real estate, including, without limitation, the Personal Property, this Mortgage is 
hereby deemed to be, as well, a Security Agreement under the Florida Uniform Commercial 
Code for the purpose of creating hereby a security interest in such property, which the Mortgagor 
hereby grants to the Mortgagee, as Secured Party (as said term is defined in the Florida Uniform 
Commercial Code), securing the indebtedness and obligations secured by this Mortgage. 
Accordingly, to the extent that this instrument may operate as a security agreement under the 
Florida Uniform Commercial Code, the Mortgagee shall have all rights and remedies conferred 
therein for the benefit of a Secured Party (as said term is defined in the Florida Uniform 
Commercial Code). Mortgagor authorizes Mortgagee to file financing statements (UCC-1) as 
appropriate to perfect the said security interest.

**Loan Agreement Commitment.** The terms of the Loan Agreement are specifically 
incorporated herein and are made a part hereof by reference. A default by Mortgagor under any 
of the terms and provisions of the Loan Agreement, after any applicable notice and cure period, 
at the option of the Mortgagee, shall constitute a default under this Mortgage, entitling the 
Mortgagee to accelerate the maturity of the indebtedness hereby secured. Whenever possible, the 
provisions of the Loan Agreement shall be deemed supplemental to and not in derogation of this 
Mortgage and the other Loan Documents; however, to the extent that any conflict or inconsist-

**Waiver of Appraisement and Valuation.** The Mortgagor agrees to the full extent 
permitted by law, neither the Mortgagor nor anyone claiming through or under it shall or will set 
up, claim or seek to take advantage of any appraisement, valuation, stay, extension or redemption 
laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of 
this Mortgage, or the absolute sale of the Property hereby conveyed, to the final and absolute 
putting into possession thereof, immediately after such sale, the purchasers thereof. And the 
Mortgagor, and any guarantor, for itself and all who may at any time claim through or under it, 
hereby waives to the full extent that it may lawfully do so, the benefit of all such laws, and any 
and all right to have the assets comprised in the security intended to be created hereby marshaled.
upon any foreclosure of the lien hereof and agrees that the Mortgagee or any court having jurisdiction to foreclose such lien may sell the Property as an entirety.

**Late Charges.** Irrespective of whether or not Mortgagee has exercised its right to foreclose this Mortgage and accelerate all amounts due and owing under the terms of the Note secured hereby, a "late charge" of five (5%) percent of any payment required under the terms of the Note shall be imposed on each and every payment due under the terms of the Note not received by the Mortgagee within ten (10) days after it is due. The late charge is not a penalty, but liquidated damages to defray administrative and related expenses due to such late payment. The late charge shall be immediately due and payable and shall be paid by the Mortgagor to the Mortgagee without notice or demand; provided, however, under no circumstances shall any such late charge be imposed which shall be in excess of the maximum legal interest rate chargeable under Florida law.

**Inspections/Estoppel Information.** Mortgagor shall permit Mortgagee and its representatives and agents to enter upon and inspect the Property at any time during normal business hours and, within ten (10) business days after request by Mortgagee, Mortgagor shall furnish a written estoppel statement confirming the outstanding balance of the indebtedness secured by this Mortgage and any offset or defense which exists with respect to such indebtedness. Within ten (10) business days after request by Mortgagor, Mortgagee shall furnish a written estoppel statement confirming the outstanding balance of the indebtedness secured by this Mortgage and whether, to the knowledge of Mortgagee, any default exists under the Note, this Mortgage, the Loan Agreement, or any other Loan Document.

**Notices.** Except for any notice required under applicable law to be given in another manner, any notice to Mortgagor or to Mortgagee provided for in this Mortgage shall be given by hand delivery, nationally recognized overnight courier, or by mailing such notice by certified mail, return receipt requested, addressed to as follows, or at such other address either party may designate by written notice to the other party. Any notice provided for in this Mortgage shall be deemed to be given to Mortgagor or Mortgagee upon the expiration of three (3) business days from the date same was deposited in an official postal depository, or if hand delivered or transmitted by overnight courier, when received.

If to Mortgagor:

Margaritaville Hollywood Beach Resort, LLC
Attention: Lon Tabatchnick
3501 N. Ocean Drive
Hollywood, FL 33019

With a copy to:

Wilson C. Atkinson, III, Esq.
Atkinson, Diner, Stone, Mankuta and Ploucha, P.A.
One Financial Plaza, Suite 1400
100 S.E. Third Avenue
Fort Lauderdale, Florida 33394-0030

If to Mortgagee:

HOLLYWOOD COMMUNITY
With a copy to:

REDEVELOPMENT AGENCY
Attention: Executive Director
330 North Federal Highway
Hollywood, Florida 33020
CRA General Counsel
City Attorney's Office
2600 Hollywood Blvd.
Hollywood, FL 33020

Notices of change of address shall only be effective upon receipt.

Release of Mortgage. Upon payment of all sums secured by this Mortgage, Mortgagor shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay all costs of recordation, if any.

Terms. The terms "Mortgagor" and "Mortgagee" whenever used in this instrument shall include the heirs, personal representatives, successor and assigns (where permitted) of the respective parties hereto. Wherever used, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders.

Indemnification. Mortgagor shall, at its own expense, and does hereby agree to protect, indemnify, defend, and hold Mortgagee and its directors, officers, agents, employees, and attorneys, harmless from and against any and all liability, loss, expense or damage of any kind or nature arising under or related to this Mortgage, the Note, Loan Agreement, and other Loan Documents, including, without limitation, any liability or loss that may arise by reason of an incorrect legal description of the Land (including attorney's fees and expenses paid or incurred in connection therewith). This indemnification shall survive the full payment and performance of all of the obligations due under the terms of this Mortgage and the obligations due in connection with the Note and all other Loan Documents and all of the stipulations, agreements, conditions, and covenants, contained and set forth therein.

Prepaid Interest. In the event of the acceleration of this Mortgage and the Note secured hereby by reason of any default herein, any prepaid and unearned interest in excess of the legal rate of interest to the date of enforcement or payment, shall thereupon be refunded to the Mortgagor, automatically by the crediting of same against the sum then due, but such credit shall not cure nor waive the default occasioning acceleration.

Headings, Etc. The headings of the paragraphs and subdivisions of this Mortgage are for convenience of reference only and are not to be considered a part thereof and shall not limit or affect the interpretation of any of the terms hereof in any manner whatsoever.

Invalid Provisions to Affect No Others. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage, the Note, or any other Loan Document shall be invalid, illegal or unenforceable in any respect, the validity of the remaining
covenants, agreements, terms or provisions contained in this Mortgage, the Note, and in all other Loan Documents shall in no way be affected, prejudiced or disturbed thereby.

**Modification.** No agreement unless in writing and signed by an authorized officer of Mortgagee and no course of dealing between the parties hereto shall be effective to change, waive, terminate, modify, discharge, or release in whole or in part any provision of this Mortgage. No waiver of any rights or powers of Mortgagee or consent by it shall be valid unless in writing signed by an authorized officer of Mortgagee and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

**Applicable Law.** This Mortgage shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Florida (excluding the principles thereof governing conflicts of law), and federal law, in the event federal law permits a higher rate of interest than Florida law.

**No-Merger.** So long as this Mortgage is in existence, the City’s fee simple interest in the Land and the Mortgagor’s leasehold estate therein shall not merge, but shall remain separate and distinct, notwithstanding the acquisition of both estates by the City, or by Mortgagor, or by Mortgagee, or by any other person.

**WAIVER OF TRIAL BY JURY.** MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT 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 DOCUMENT EXECUTED IN CONNECTION HEREWITH OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE MORTGAGOR, GUARANTORS OR MORTGAGEE. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE MORTGAGEE TO MAKE THE LOAN SECURED BY THIS MORTGAGE.

[Remainder of Page Intentionally Left Blank]
IN WITNESS WHEREOF, said Mortgagor has hereunto set its hand and seal the day and year first aforesaid.

ATTEST:

MARGARITAVILLE HOLLYWOOD,
BEACH RESORT, LLC, a Florida limited liability company

Post Office Address:

3501 N. Ocean Drive
Hollywood, FL 33019

By: Hollywood Resort Partners, L.P.,
Member

By: Lojeta-Millenium Group,
LLC
Its: General Partner

By: Lon Tabatchnick
Its: Manager

By: Margaritaville of Hollywood,
Florida, LLC
Member

By: John Cohlan
Its: Manager
STATE OF FLORIDA
COUNTY OF BROWARD

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED before me this ___ day of ____________, 2011, by Lon Tabatchnick, as Manager of Lojeta-Millenium Group, LLC, General Partner of Hollywood Resort Partners, L.P., Member of MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC, a Florida limited liability company, to me personally known ____ or produced identification ____. Type of Identification produced ________________________.

__________________________
Name:
Notary Public
My Commission Expires: ____________
Commission No.: ____________________

STATE OF FLORIDA
COUNTY OF BROWARD

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED before me this ___ day of ____________, 2011, by John Cohian, as Manager of Margaritaville of Hollywood, Florida, LLC, Member of MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC, a Florida limited liability company, to me personally known ____ or produced identification ____. Type of Identification produced ________________________.

__________________________
Name:
Notary Public
My Commission Expires: ____________
Commission No.: ____________________
EXHIBIT "A"

Legal Description of the Land

Block "F", LESS the West 12.5 feet and LESS the North 40.00 feet thereof, "HOLLYWOOD BEACH", according to the plat thereof as recorded in Plat Book 1, Page 27 of the Public Records of Broward County, Florida;

and subject to a right-of-way reserve area unto the City of Hollywood across the East 10 feet of the West 22.5 feet of said Block "F"; and subject to a utility reserve area unto the City of Hollywood across the East 20 feet of the West 32.5 feet LESS the South 60 feet of the North 100 feet thereof, and the South 20 feet of said Block "F".

Uses within the utility and right-of-way reserve areas shall be subject to specific approval from the City of Hollywood and generally shall be limited to walkways, landscaping, signage, lighting and other similar elements consistent with utility and right-of-way uses.

Said land situate, lying and being in the City of Hollywood, Broward County, Florida.

Notwithstanding the legal description of the Land provided above, upon the issuance of a certificate of occupancy for the project to be developed by the Mortgagor pursuant to the Ground Lease, the Mortgagor shall provide the Mortgagee with an as-built survey delineating public right-of-way improvements as reflected per the approved Site Plan which affect the Land. Upon presentation of the as-built survey to the Mortgagee, the aforementioned description shall be amended by the Mortgagee to exclude from the Hotel Parcel the reflected public improvements.
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<th>THIS PERIOD</th>
<th>MATERIALS PRESENTLY STORED ((NOT\ IN\ &amp;\ OR\ E))</th>
<th>TOTAL COMPLETED AND STORED TO DATE ((C+D+E+F))</th>
<th>% (G/C)</th>
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<td>MATERIALS PRESENTLY STORED (NOT IN D OR E)</td>
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<td>% (G/C)</td>
<td>BALANCE TO FINISH (C-G)</td>
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EXHIBIT “D”

LIST OF OTHER RELATED DOCUMENTS

1. Development Agreement and Ground Lease
2. Any and all documents evidencing, securing and/or otherwise related to the CDD Financing
3. Any and all documents, evidencing, securing and/or otherwise related to the construction loan financing and/or permanent loan financing of the Project
4. Trademark Sub-License Agreement
5. Intracoastal Parcel License Agreement
6. Johnson Street Parcel License Agreement
7. CRA Funding Agreement