

Prepared By and When Recorded Return to:  
Kyle Jensen, Esquire  
Clark Campbell Lancaster & Munson, PA  
500 S. Florida Avenue, Suite 800  
Lakeland, Florida 33801

**NO FLORIDA INTANGIBLE TAXES OR DOCUMENTARY STAMPS ARE DUE HEREON PURSUANT TO §159.31 AND §159.50, FLORIDA STATUTES**

**MORTGAGE, SECURITY AGREEMENT, FINANCING STATEMENT AND ASSIGNMENT OF RENTS**

Between:

**LAKE WALES CHARTER SCHOOLS, INC.**, a Florida non-profit corporation

as "**Mortgagor**"

and

**CITIZENS BANK AND TRUST**, a Florida state chartered bank

as "**Mortgagee**"

Loan Amount: \$8,000,000.00      Date: September \_\_\_, 2021

**THIS MORTGAGE, SECURITY AGREEMENT, FINANCING STATEMENT AND ASSIGNMENT OF RENTS** (the "**Mortgage**") is executed as of the \_\_\_ day of September, 2021, by **LAKE WALES CHARTER SCHOOLS, INC.**, a Florida non-profit corporation ("**Borrower**" or "**Mortgagor**") to **CITIZENS BANK AND TRUST**, a Florida state chartered bank, having an address of Post Office Box 7, Frostproof, Florida 33843 (together with any holder or holders of all or any part of the "Secured Indebtedness" [as defined below], the ("**Bank**" or "**Mortgagee**").

**WHEREAS**, pursuant to a Financing Agreement dated as of September \_\_\_, 2021, by and among the POLK INDUSTRIAL DEVELOPMENT AUTHORITY (the "**Issuer**"), the Mortgagor, and the Bank (the "**Financing Agreement**"), the Issuer has issued its INDUSTRIAL DEVELOPMENT REVENUE BONDS (LAKE WALES CHARTER SCHOOLS, INC. PROJECT) SERIES 2021 (the "**Bonds**") in the aggregate principal amount of \$8,000,000.00; and

**WHEREAS**, pursuant to the Financing Agreement, the Bank has purchased the Bonds, the Borrower has granted a Promissory Note dated of even date herewith in the principal amount of \$8,000,000.00 in favor the Issuer (the "**Promissory Note**") to provide for the repayment of the Bonds, and the Promissory Note has been assigned to Bank; and

**WHEREAS**, pursuant to the Financing Agreement and the other Loan Documents (as defined herein), the Mortgagor has covenanted and agreed to make all debt service payments required under the Bonds directly to the Bank; and

**WHEREAS**, pursuant to the Financing Agreement, and as a condition of the Bank agreeing to purchase the

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Bonds, the Mortgagor has agreed to grant the Bank a lien on the Mortgaged Property (as defined herein), subject only to the First Mortgage (as defined herein), to secure all of the Mortgagor's repayment obligations pursuant to the Financing Agreement, Promissory Note, and other Loan Documents, including the Bonds.

**NOW THEREFORE**, to induce the Issuer to issue the Bonds and to induce the Bank to purchase the Bonds, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, the parties agree as follows:

## **ARTICLE ONE DEFINITIONS**

The following terms shall have the following meanings, unless the context clearly requires otherwise:

**"Affiliate"** shall mean with respect to any Person, (a) any other Person which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, (i) such Person or (ii) any general partner of such Person; (b) any other Person 5% or more of the equity interest of which is held beneficially or of record by (i) such Person or (ii) any general partner of such Person, and (c) any general or limited partner or member of (i) such Person or (ii) any general partner of such Person. "Control" means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, family relationship or otherwise.

**"Code"** shall mean the Florida Uniform Commercial Code, as amended from time to time, Chapters 671 through 680, *Florida Statutes*.

**"Environmental Law"** shall mean any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environmental conditions on, under or about the Mortgaged Property, including but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq.*) ("**CERCLA**"), as amended from time to time, including without limitation, the Superfund Amendments and Reauthorization Act ("**SARA**"), and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sections 6901, *et seq.*) ("**RCRA**"), as amended from time to time.

**"Event of Default"** shall have the meaning ascribed to said term in Section 5.01 hereof.

**"Force Majeure Event"** shall mean any act of God, act of war, enemy action, civil disturbance, strike or labor lockout, or failure or inability to secured materials by reason of priority or similar regulation or order of any governmental authority.

**"Hazardous Substance"** shall mean one or more of the following substances: (i) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in CERCLA, SARA, RCRA, the Toxic Substances Control Act, Federal Insecticide, Fungicide, and Rodenticide Act, and the Hazardous Materials Transportation Act (49 U.S.C. Sections 1801 *et seq.*), and in the regulations promulgated pursuant to said laws; (ii) those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); (iii) such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or the United States government, or which are classified as hazardous or toxic under federal, state, or local laws or regulations; and (iv) any material, waste or substance which is: (a) asbestos; (b) polychlorinated biphenyls; (c) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Sections 1251 *et seq.* (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. §1317); (d) petroleum or petroleum distillate; (e) explosives; (f) radioactive materials; or (g) lead based paint.

**"Improvements"** shall mean all buildings, structures and improvements now or in the future on the Land.

**"Land"** shall mean the tracts of real property described upon Exhibit "A" attached hereto.

**"Leases"** shall mean all present and future leases and agreements, written or oral, for the use or occupancy of any portion of the Mortgaged Property, and any renewals, extensions or substitutions thereof and any and all subleases thereunder.

**"Loan Documents"** shall mean the Financing Agreement, Promissory Note, the Bonds, and this Mortgage, together with all documents, agreements, certificates, affidavits, loan agreements, security agreements, mortgages, collateral pledge agreements, assignments and contracts representing, evidencing or securing any or all of the Secured Indebtedness.

**"Mortgaged Property"** shall mean: (i) the Land and (a) the Improvements; (b) all estates, easements, interests, licenses, rights and titles of Mortgagor in and to or benefiting the Land; (c) all estates, easements, interests, licenses, rights and titles, if any, of Mortgagor in and to the real estate lying in all present or future roads and sidewalks, in front of, or adjoining, the Land, and in and to any strips or gores of real estate adjoining the Land; (d) all passages, waters, water rights, water courses, riparian rights, other rights appurtenant to the Land, as well as any after-acquired title, franchise or license, and the reversions and remainders thereof; and (e) all estates, easements, licenses, interests, rights and titles appurtenant or incident to the foregoing; (ii) the Personal Property; and (iii) all other estates, easements, licenses, interests, rights and titles which Mortgagor now has, or at any time hereafter acquires, in and to the Land, the Improvements, the Personal Property, and all property which is used or useful in connection therewith, including without limitation (a) all proceeds payable in lieu of or as compensation for loss or damage to any of the foregoing; (b) all awards for a taking or for degradation of value in any eminent domain proceeding involving any of the foregoing; and (c) the proceeds of any and all insurance (including without limitation, title insurance) covering the Land, the Improvements, the Personal Property, and any of the foregoing.

**"Obligor"** shall mean any guarantor, surety, endorser, partner in Mortgagor (if a partnership or joint venture) or other party (other than Mortgagor) directly or indirectly obligated, primarily or secondarily, for any portion of the Secured Indebtedness.

**"Obligations"** shall mean (i) any and all of the indebtedness, liabilities, covenants, promises, agreements, terms, conditions, and other obligations of every nature whatsoever, whether joint or several, direct or indirect, absolute or contingent, liquidated or unliquidated, of Mortgagor or any Obligor to Mortgagee, evidenced by, secured by, under or as set forth in the Financing Agreement, Bonds, Promissory Note, this Mortgage and/or the other Loan Documents; (ii) any and all other indebtedness, liabilities and obligations of every nature whatsoever (whether or not otherwise secured or to be secured) of Mortgagor or any Obligor (whether as maker, endorser, surety, guarantor or otherwise) to Mortgagee or any of Mortgagee's Affiliates, whether now existing or hereafter created or arising or now owned or howsoever hereafter acquired by Mortgagee or any of Mortgagee's Affiliates, whether such indebtedness, liabilities and obligations are or will be joint or several, direct or indirect, absolute or contingent, liquidated or unliquidated, matured or unmatured; (iii) any and all future advances under this Mortgage; and (iv) all expenses and costs, including without limitation attorneys' fees, incurred by Mortgagee in the preparation, execution, or enforcement of any document relating to any of the foregoing.

**"Organizational Documents"** shall mean, as to any Person which is not a natural person, the documents and/or instruments creating and/or governing the formation or operation of such Person, including without limitation such documents required to be filed with any governmental authority having jurisdiction over the creation or formation of such Person and including without limitation, articles of incorporation, bylaws, shareholder agreements, voting trust agreements, articles of organization, operating agreements, management agreements, certificates of limited partnership, partnership agreements, statements of qualification, trust agreements or indentures or other agreements or instruments as appropriate for such Person.

**"Permitted Exceptions"** shall mean the exceptions to title as listed in the Mortgagee Title Policy provided in conjunction with this Loan.

**"Person"** shall mean any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other form of entity.

**"Personal Property"** shall mean the following, now owned or hereafter acquired by Mortgagor, and all accessories, attachments, additions, replacements, substitutes, products, proceeds, and accessions thereto or thereof: (i) all property, personal or otherwise, at any time attached to or incorporated into or used in or about the Land and/or Improvements, including, without limitation, all fixtures, building materials,

furniture, appliances, furnishings, goods, equipment, and machinery and all other tangible personal property affixed, attached or related to such property or used in connection therewith; (ii) all accounts, deposit accounts, instruments, chattel paper, documents, consumer goods, insurance proceeds, surveys, plans and specifications, drawings, permits, licenses, warranties, guaranties, deposits, prepaid expenses, contract rights, and general intangibles now, or hereafter related to, any of the Land and/or Improvements; (iii) all Rents and Leases; (iv) all other income or revenues of any kind now or hereafter derived from the operation of the Land and/or the Improvements, service fees and charges, and other fees for the use of all or any portion of the Mortgaged Property or any facilities thereon, or services provided thereon or therein, (v) all general intangibles relating to the development or use of the Land and/or Improvements, including but not limited to all governmental permits relating to construction on the Land and/or, all names under or by which the Land and/or Improvements may at any time be operated or known, and all rights to carry on the business under any such names or any variant thereof, and all trademarks and goodwill in any way relating to the Land and/or Improvements; (vi) all water rights relating to the Land and/or Improvements that is owned by Mortgagor in common with others, and all documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Land and/or Improvements; and (vii) all proceeds and claims arising on account of any damage to or taking of the Land and/or Improvements or any part thereof, and all causes of action and recovery for any loss or diminution in the value of the Land and/or Improvements and all rights of the Mortgagor under any policy or policies of insurance covering the Land and/or Improvements or any Rents relating to the Real Estate and all proceeds, loss payments and premium refunds which may become payable with respect to such insurance policies.

"**Rents**" shall mean the rents, income, receipts, revenues, issues and profits now due or which may become due or to which Mortgagor may now or hereafter become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Mortgaged Property, or any part thereof, including, without limitation, minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges (including monthly rental for parking spaces), tax and insurance premium contributions, and liquidated damages following default, premiums payable by any Lessee upon the exercise of any cancellation privilege provided for in any of the Leases, and all proceeds payable under any policy of insurance covering the loss of rent resulting from untenability caused by destruction or damage of the Mortgaged Property, together with any and all rights and claims of any kind which Mortgagor may have against any Lessee or against any other occupants of the Mortgaged Property.

"**Secured Indebtedness**" shall mean: (i) all principal, interest, late charges, fees, premiums, expenses, obligations and liabilities of Mortgagor to Mortgagee arising pursuant to or represented by the Financing Agreement and Promissory Note; (ii) all indebtednesses, liabilities, and obligations arising under this Mortgage or under any other Loan Documents; (iii) all Obligations; and (iv) any and all renewals, increases, extensions, modifications, rearrangements, or restatements of the Financing Agreement and Promissory Note or all or any part of the loans, advances, future advances, indebtednesses, liabilities, and obligations described or referred to herein together with all costs, expenses, and attorneys' fees incurred in connection with the enforcement or collection thereof.

## **ARTICLE TWO GRANT; WARRANTY OF TITLE**

For good and valuable consideration, including the loan evidenced by the Financing Agreement and Promissory Note, and in order to secure the Secured Indebtedness, Mortgagor does hereby **GRANT, BARGAIN, SELL, TRANSFER, ASSIGN, MORTGAGE, AND CONVEY** unto Mortgagee, and Mortgagee's successors and assigns, the Mortgaged Property, subject to the Permitted Exceptions, **TO HAVE AND TO HOLD** the Mortgaged Property, together with all and singular the rights, hereditaments, and appurtenances thereto, for the use and benefit of Mortgagee, forever. **CONDITIONED**, however, that if Mortgagor shall promptly pay or cause to be paid to Mortgagee the Secured Indebtedness, then these presents shall cease and be void, otherwise these presents shall remain in full force and effect. Mortgagor for Mortgagor and Mortgagor's successors, hereby agrees to warrant and forever defend, all and singular, good and marketable unencumbered fee simple title to the Mortgaged Property unto Mortgagee, and Mortgagee's successors or assigns, forever, against every person whomsoever lawfully claiming, or to claim, the same or any part thereof, **subject, however**, to the Permitted Exceptions. The foregoing warranty of title shall survive the foreclosure of this Mortgage and shall inure to the benefit of and be enforceable by any person

who may acquire title to the Mortgaged Property pursuant to such foreclosure.

### ARTICLE THREE

#### REPRESENTATIONS AND WARRANTIES AND COVENANTS

##### 3.01 Representations and Warranties.

Mortgagor represents and warrants to Mortgagee as follows:

- (a) *Authority, etc.* Borrower is a Florida not-for-profit corporation duly formed, validly existing and in good standing under the laws of its state of organization and its Organizational Documents and is duly qualified to transact business within the State of Florida; Borrower has all requisite power and authority to own, lease and operate its properties, including without limitation the Mortgaged Property owned by it; Borrower has full and lawful authority and power to execute, acknowledge, deliver, and perform this Mortgage and the other Loan Documents and the Loan Documents constitute the legal, valid, and binding obligations of Borrower and any other party thereto, enforceable against Borrower and such other parties in accordance with their respective terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or similar laws of general application affecting creditors' rights generally; and neither the execution and delivery of the Loan Documents, nor performance of or compliance with the terms thereof, will contravene or conflict with any law, statute or regulation to which Borrower is subject or any judgment, license, order or permit applicable to Borrower or any Organizational Document, indenture, mortgage, agreement or other instrument to which Borrower is a party or by which Borrower or the Mortgaged Property owned by it may be bound or subject. Borrower is *sui juris* and otherwise of full legal capacity has all requisite power and authority to own, lease and operate its properties, including without limitation that portion of the Mortgaged Property owned by them; has full and lawful authority and power to execute, acknowledge, deliver, and perform this Mortgage and the other Loan Documents to which they are parties and the Loan Documents to which they are parties constitute the legal, valid, and binding obligations of Borrower and any other party thereto, enforceable against them and such other parties in accordance with their respective terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or similar laws of general application affecting creditors' rights generally; and neither the execution and delivery of the Loan Documents to which they are parties, nor performance of or compliance with the terms thereof, will contravene or conflict with any law, statute or regulation to which they are subject or any judgment, license, order or permit applicable to them or any Organizational Document, indenture, mortgage, agreement or other instrument to which they are a party or by which they or the Mortgaged Property owned by them may be bound or subject.
- (b) *Title.* Borrower is the owner of good and marketable title to the Mortgaged Property designated on Exhibit "A", subject only to the Permitted Exceptions applicable to such Property.
- (c) *Access.* The Mortgaged Property has full and free access to and from public streets and utilities' services and connections as are necessary for operation of the Project.
- (d) *Information Provided.* All reports, statements, financial statements, cost estimates and other data, furnished by or on behalf of Mortgagor or any Obligor including, without limitation, any surveys, plans and specifications, and commitments for title insurance are true and correct in all material respects.
- (e) *Defaults.* No event has occurred and is continuing which constitutes an Event of Default or would, with the lapse of time or giving of notice or both, constitute an Event of Default.
- (f) *Taxes.* All taxes, assessments and other charges levied against the Mortgaged Property and currently payable have been paid in full.
- (g) *Leases.* Mortgagor has duly and punctually performed all and singular its obligations under any existing Leases up to the date hereof.

(h) *Zoning*. The Property is zoned for a classification that permits the use of the existing or contemplated Improvements.

(i) *No Casualty*. The Mortgaged Property is not now damaged or injured as a result of any casualty.

(j) *Permits*. Except as expressly disclosed to Mortgagee in writing as of the date hereof, Mortgagor has obtained, and paid the fees for, all governmental permits and licenses necessary for the use and operation of the Mortgaged Property.

(k) *Compliance with Governmental Regulations*. There are no material violations of governmental laws or regulations that pertain to the Mortgaged Property, and the existing Improvements do not violate any applicable building, fire or zoning codes or regulations of any governmental agencies having jurisdiction thereof.

(l) *No Adverse Change*. There has been no material adverse change in the financial condition of the Mortgagor or any Obligor since the date of application for the loan evidenced by the Note, nor has any portion of the Mortgaged Property been taken by eminent domain or condemned.

(m) *Legal Proceedings*. There are no claims, suits or other legal proceedings, pending or, to the actual knowledge of Mortgagor, on the date hereof, threatened against Mortgagor before any court or tribunal, which, if adversely determined, could (1) result in a judgment in money damages, or a fine or penalty against Mortgagor or the Mortgaged Property, (2) impair Mortgagor's ability to perform its obligations under the Loan Documents, (3) impair Mortgagor's ability to use or occupy any Improvements, or (4) reduce Mortgagor's income.

(n) *Utilities*. All utilities required by law or required for use and operation of the Mortgaged Property are available in sufficient capacity to meet the needs of the existing Improvements, and all lines for such utilities run either from publicly dedicated streets or, in the event they run through or over private property, there exist properly recorded easements which run with the land within which same run.

(o) *Access Laws*. The Improvements are in compliance with all Access Laws applicable to the Mortgaged Property.

(p) *Bankruptcy*. There are no actions, whether voluntary or involuntary, pending or threatened under the United States Bankruptcy Code in which Mortgagor or any Obligor is a "debtor".

(q) *Financial and Other Information*. All financial information furnished to Mortgagee with respect to Mortgagor, any Guarantor, or the Mortgaged Property (a) is complete and correct in all material respects, (b) accurately presents the financial condition of such Persons as of the respective dates thereof and (c) has been prepared in accordance with GAAP or in accordance with such other principles or methods as are reasonably acceptable to Mortgagee. All other documents and information furnished to Mortgagee with respect to such Persons are correct in all material respects and complete insofar as completeness is necessary to give Mortgagee an accurate knowledge of their subject matter. Such Persons have no material liability or contingent liability not disclosed to Mortgagee in writing and there is no material lien, claim, charge or other right of others of any kind (including liens or retained security titles of conditional vendors) on any property of such Persons not disclosed in such financial statements or otherwise disclosed to Mortgagee in writing.

(r) *Tax Liability*. Mortgagor has filed all required federal, state and local tax returns and has paid all taxes due (including interest and penalties, but subject to lawful extensions disclosed to Mortgagee in writing) other than taxes being promptly and actively contested in good faith and by appropriate proceedings. Mortgagor is maintaining adequate reserves for tax liabilities (including contested liabilities) in accordance with generally accepted accounting principles or in accordance with such other principles or methods as are reasonably acceptable to Mortgagee.

3.02 **Covenants.** So long as this Mortgage shall remain in effect, Mortgagor covenants and agrees with Mortgagee as follows:

(a) *Payment of Obligations.* Borrower shall pay as and when due all amounts owing on the Obligations, including without limitation the Secured Indebtedness.

(b) *Other Loan Documents.* Mortgagor shall perform all covenants, agreements and undertakings required of Mortgagor under the other Loan Documents, as and when required thereunder.

(c) *Taxes.* Mortgagor shall pay (not later than ten [10] days before the date upon which such items would become delinquent) all lawful taxes and assessments as to any of the Mortgaged Property, and shall furnish to Mortgagee (not later than ten [10] days prior to the date upon which such taxes or assessments would become delinquent) evidence satisfactory to Mortgagee of the timely payment of such taxes and assessments; **provided, however**, Mortgagor shall not be required to pay any such tax or assessment if and so long as the amount, applicability or validity thereof is being contested in good faith by appropriate legal proceedings and appropriate cash reserves therefor have been deposited with Mortgagee in an amount equal to the amount being contested plus a reasonable additional sum to cover costs, legal fees and expenses, interest and penalties.

(d) *Insurance.*

(i) Type and Amounts. Mortgagor shall maintain or cause to be maintained, to promptly pay, on or before the same becoming due, all premiums relative to, shall provide Mortgagee with evidence of such coverages as Mortgage shall require with respect to, and shall name Mortgagee as an additional insured, loss payee and/or mortgagee, as appropriate, under, the following policies of insurance as and when required below, which must be carried with insurers approved by and acceptable to Mortgagee, in its sole discretion: such insurance policies as set forth in that certain Covenant and Disbursement Agreement by and between Mortgagor and Mortgagee. All policies of insurance required hereunder shall be satisfactory in form and substance to Mortgagee and shall be approved by Mortgagee as to amounts, form, risk coverage, deductibles, loss payees and insureds.

(ii) Requirements as to Policies. All policies of insurance required hereunder are (1) to be issued by companies approved by Mortgagee and either licensed to transact business in the State of Florida, or obtained through a duly authorized surplus line insurance agent or otherwise in conformity with the laws of such state, with a claims paying ability rating of "A" or better by Standard & Poor's Ratings Group or a rating of "A:X" or better in the current Best's Insurance Reports, (2) to contain the standard New York mortgagee non-contribution clause naming Mortgagee as the Person to which all payments made by such insurer shall be paid, (3) to be maintained so long as the Secured Indebtedness remains unpaid without cost to Mortgagee, and (4) to provide that Mortgagee shall receive at least thirty (30) days prior written notice of any modification, termination or cancellation.

(iii) Delivery of Policies. Mortgagor shall cause the originals or duplicate originals of each policy required hereunder to be delivered to Mortgagee.

(iv) Payment of Premiums. Mortgagor shall pay, or cause to be paid, all insurance premiums at least 30 days before such premiums become due and shall furnish Mortgagee satisfactory proof of such timely payments and shall deliver all renewal policies to Mortgagee at least 30 days prior to the expiration of each expiring policy.

(v) Review of Values. Upon the written request of Mortgagee, Mortgagor shall increase the amount of insurance covering the Mortgaged Property to its then full insurable value.

(e) *Notice of Casualty.* Mortgagor shall immediately deliver written notice to Mortgagee of any casualty loss affecting the Mortgaged Property that would cost more than \$10,000.00 to repair or replace.

(f) *Compliance with Laws.* Mortgagor shall comply with all governmental laws, ordinances, rules, and regulations applicable to the Mortgaged Property and its ownership, use, and operation, and shall comply with all, and not violate any, easements, restrictions, agreements, covenants, and conditions with respect to or affecting the Mortgaged Property, or any part thereof.

(g) *Condition of Mortgaged Property.* Mortgagor shall maintain, preserve, and keep the Mortgaged Property in good repair and condition at all times and from time to time.

(h) *Payments for Labor and Materials.* Mortgagor shall pay promptly all bills for labor, materials and equipment incurred in connection with the Mortgaged Property, and shall never permit to be fixed against the Mortgaged Property, or any part thereof, any lien, even though inferior to the liens and security interests hereof, for any such bill which may be legally due and payable; **provided, however,** Mortgagor shall not be required to pay any such bill if the amount, applicability or validity thereof is being contested in good faith by appropriate legal proceedings and Mortgagor has furnished to Mortgagee a bond in form and substance acceptable to Mortgagee with corporate surety satisfactory to Mortgagee, or other security satisfactory to Mortgagee, and sufficient such that the contested lien shall be transferred from the Mortgaged Property to such bond.

(i) *Further Assurances.* Mortgagor shall execute and deliver forthwith to Mortgagee, at any time and from time to time upon request by Mortgagee, any and all additional instruments (including, without limitation, deeds of trust, mortgages, security agreements, assignments, and financing statements) and further assurances, and to do all other acts and things at Mortgagor's expense, as may be necessary or proper, in Mortgagee's reasonable opinion, to effect the intent of these presents, to more fully evidence and to perfect, the rights, titles and Liens, herein created or intended to be created hereby and to protect the rights of Mortgagee hereunder.

(j) *Prohibition Against Liens.* Without the prior written consent of Mortgagee, Mortgagor shall not create, incur, permit or suffer to exist in respect of the Mortgaged Property, or any part thereof, any other or additional Lien on a parity with or superior or inferior to the liens and security interests hereof; **provided, however,** if any such lien now or hereafter affects the Mortgaged Property or any part thereof, Mortgagor covenants to timely perform all covenants, agreements and obligations required to be performed under or pursuant to the terms of any instrument or agreement creating or giving rise to such lien. Notwithstanding the foregoing or anything else within this Mortgage to the contrary, Mortgagee acknowledges the existence of a mortgage in favor of the Lake Wales Community Redevelopment Agency in the original principal amount of \$575,000.00, dated June 1, 2020 and recorded in Official Records Book 11260, Page 1483, public records of Polk County Florida ("**First Mortgage**"). Mortgagee acknowledges and agrees that this Mortgage is subject to the First Mortgage; **provided, however,** Mortgagor acknowledges and agrees that the amount secured under the First Mortgage shall not be increased in any manner, nor shall Mortgagor receive any future advances under such First Mortgage or otherwise increase the principal balance due under the note secured by the First Mortgage, and any such action shall be an Event of Default.

(k) *Conveyance; Due On Sale.* Mortgagee will consent to the assumption of this Mortgage by a qualified borrower. Mortgagor understands that what qualifies the borrower shall be determined at the sole discretion of Mortgagee. Without the prior written consent of Mortgagee, in Mortgagee's sole and absolute discretion (*i.e.*, such consent may be withheld for any reason or for no reason whatsoever), Mortgagor shall not sell or otherwise dispose (which shall include any installment sales contract or agreement for deed, lease-option agreement, ground lease, or lease under which the tenant does not occupy any portion of the Mortgaged Property) of the Mortgaged Property, except for partial releases as provided for herein, or any part thereof, nor shall it permit the sale, transfer, assignment, pledge, encumbrance, or other disposition of any interest in Mortgagor or the right to receive distributions or profits from Mortgagor or the Mortgaged Property, or the change in control in Mortgagor or any Person comprising Mortgagor that results in a material change in the identity of the Person(s) in control of such entity. In the event of the violation of any of the foregoing, Mortgagee may, at its election, declare the entire Secured Indebtedness to be immediately due and payable, without notice to Mortgagor (which notice Mortgagor hereby expressly waives); and

upon such declaration, the entire Secured Indebtedness shall be immediately due and payable, anything contained in any Loan Document to the contrary notwithstanding, and the Mortgagee shall have such options as are provided herein and the Loan Documents. Mortgagee shall not be required to demonstrate any actual impairment of its security in order to exercise such option. The provisions hereof shall be operative with respect to, and be binding upon, any Persons who shall acquire any part or interest in or encumbrance upon the Mortgaged Property, or any interest in the Mortgagor. Any waiver by the Mortgagee of the provisions hereof shall not be a waiver of the right of the Mortgagee in the future to insist upon strict compliance with the provisions hereof.

(l) *Annual Financial Statements; Tax Returns.* Mortgagor shall deliver to Mortgagee all financial statements and tax returns as required by the Financing Agreement and other Loan Documents

(m) *Additional Reports and Information.* Mortgagor shall also deliver to Mortgagee, in form and substance reasonably satisfactory to Mortgagee and within ten (10) days of Mortgagee's request therefor from time to time, (a) copies of all financial statements and reports that Mortgagor sends to its shareholders (if Mortgagor is a corporation), (b) copies of all reports which are available for public inspection or which Mortgagor is required to file with any governmental authority, and (c) all other information relating to Mortgagor, the Mortgaged Property or the Secured Indebtedness reasonably required by Mortgagee from time to time, including but not limited to quarterly progress reports outlining the costs and revenues associated with any project in which Mortgagee has a financial interest.

(n) *Tax on Liens.* If at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Mortgage, or upon any rights, titles, liens, or security interests created hereby, or upon the Secured Indebtedness, or any part thereof, Mortgagor shall pay immediately all such taxes to the extent permitted by law; provided that, if it is unlawful for Mortgagor to pay such taxes, then Mortgagor shall, if Mortgagee so requires, prepay the Secured Indebtedness in full within sixty (60) days after demand therefor by Mortgagee.

(o) *Inspections.* During all business hours, and with advance notice, Mortgagor shall allow any representative of Mortgagee to inspect the Mortgaged Property, and all books and records of Mortgagor, and to make and take away copies of such books and records. Mortgagor shall maintain complete and accurate books and records in accordance with good accounting practices.

(p) *Removal of Personalty.* Mortgagor shall not cause or permit any of the Personal Property to be removed from Mortgaged Property, except items of Personal Property which have become obsolete or worn beyond practical use and which have been replaced by adequate substitutes having a value equal to, or greater than, the replaced items when new.

(q) *Expenses.* Mortgagor shall promptly pay and hold Mortgagee harmless from all appraisal fees, survey fees, recording fees, abstract fees, title policy fees, escrow fees, attorneys' fees, and all other costs of every kind incurred by Mortgagee in connection with the Secured Indebtedness, the collection thereof and the exercise by Mortgagee of its rights and remedies hereunder and under the other Loan Documents.

(r) *Obligations Under Personal Property; Governmental Approvals; and Contracts.* Mortgagor shall perform fully all obligations imposed upon Mortgagor by the agreements and instruments constituting part of the Personal Property (including, without limitation, the Leases), all governmental approvals, licenses or permits relative to the use and occupancy of the Improvements, and shall maintain and keep all of the foregoing in full force and effect.

(s) *Alterations.* Mortgagor shall make no material alterations in the Mortgaged Property, except as required by law or municipal ordinance, without Mortgagee's prior written consent.

(t) *Payment of Utilities.* Mortgagor shall pay promptly all charges for utilities or services related to the Mortgaged Property.

(u) *Access Laws.* Mortgagor shall strictly comply at all times, to the extent required thereby, with all Access Laws.

(v) *Appraisals.* Mortgagor shall pay for and cooperate with Mortgagee in obtaining an appraisal of the Mortgaged Property when required by the regulations of the Federal Reserve Board or the Federal Deposit Insurance Corporation or any other governmental agency or regulator having jurisdiction over Mortgagee or at such other times as the Mortgagee may reasonably require. Such appraisals shall be performed by an independent third party appraiser selected by Mortgagee. The cost of such appraisals shall be paid by Mortgagor within ten (10) days of receiving an invoice therefor.

## ARTICLE FOUR ENVIRONMENTAL MATTERS

**4.01 Representations and Warranties.** Mortgagor represents and warrants to Mortgagee as follows: (i) neither the Mortgaged Property nor the Mortgagor is in violation of or subject to any existing, pending or threatened investigation by any governmental authority under any Environmental Law; (ii) Mortgagor has not and is not required by any Environmental Law to obtain any permits or license to construct or use any improvements, fixtures or equipment forming a part of the Mortgaged Property; (iii) Mortgagor has made diligent inquiry into previous uses and ownership of the Mortgaged Property, and has determined that no Hazardous Substance has been disposed of or released on or to the Mortgaged Property; (iv) Mortgagor's prior, current and intended future use of the Mortgaged Property will not result in the disposal or release of any Hazardous Substance on or to the Mortgaged Property except as permitted by applicable law.

**4.02 Environmental Matters.** Mortgagor shall not use, generate, manufacture, store, release, discharge, or dispose of on, under, or about the Mortgaged Property or transport to or from the Mortgaged Property any Hazardous Substance or allow any other person or entity to do so except under conditions permitted by applicable laws (including all Environmental Laws). Mortgagor shall keep and maintain the Mortgaged Property in compliance with, and shall not cause or permit the Mortgaged Property to be in violation of, any Environmental Law. Mortgagor shall give prompt written notice to Mortgagee of: (i) any proceeding or inquiry by any governmental authority with respect to the presence of any Hazardous Substance on the Mortgaged Property or the migration thereof from or to other property; (ii) all claims made or threatened by any third party against Mortgagor or the Mortgaged Property relating to any loss or injury resulting from any Hazardous Substance; and (iii) Mortgagor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Property that could cause the Mortgaged Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Mortgaged Property under any Environmental Law, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Mortgaged Property under any Environmental Law. Mortgagor shall provide to Mortgagee copies, contemporaneously with filing same, of all reports, inventories, notices or other forms filed or submitted to the Environmental Protection Agency, or any state or local agency having responsibility for overseeing or enforcing any Environmental Laws. In the event that any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature (the "**Remedial Work**") is reasonably necessary under any applicable local, state or federal law or regulation, any judicial order, or by any governmental entity because of, or in connection with, the current or future presence or release of a Hazardous Substance, Mortgagor shall within such period of time as may be required under any applicable law, regulation, order or agreement, commence and thereafter diligently prosecute to completion, all such Remedial Work. All Remedial Work shall be performed by competent contractors. All costs and expenses of such Remedial Work shall be paid by Mortgagor including, but not limited to, Mortgagee's reasonable attorneys' fees and costs incurred in connection with review of such Remedial Work. In the event Mortgagor shall fail to diligently prosecute to completion such Remedial Work, Mortgagee may, but shall not be required to, cause such Remedial Work to be performed and all costs and expenses thereof, or incurred in connection therewith, shall become part of the Secured Indebtedness.

**4.03 Environmental Indemnity.** Mortgagor shall protect, indemnify and hold harmless Mortgagee, its directors, officers, employees, agents, successors and assigns from and against any and all loss, damage, cost, expense or liability (including attorneys' fees and costs) directly or indirectly arising out of or

attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under or about the Mortgaged Property whether known or unknown, fixed or contingent, occurring prior to the termination of this Mortgage, including, but not limited to: (i) all foreseeable consequential damages; and (ii) the costs of any required or necessary repair, cleanup or detoxification of the Mortgaged Property and the preparation and implementation of any closure, remedial or other required plans. This indemnity shall survive the release of the lien of this Mortgage, or the extinguishment of the lien by foreclosure or action in lieu thereof, and this covenant shall survive such release or extinguishment.

## ARTICLE FIVE

### EVENTS OF DEFAULT; REMEDIES

**5.01 Events of Default.** Any one or more of the following shall constitute an “Event of Default” hereunder:

(a) The Occurrence of an Event of Default under the Financing Agreement as provided for in Section 8.01 of the Financing Agreement, or any of the other Loan Documents;

(b) if any representation or warranty of Mortgagor or any Obligor in any of this Mortgage, the other Loan Documents, any endorsement, any guaranty, or in any certificate or statement furnished at any time thereunder or in connection therewith proves to be untrue or misleading in any material respect when made or furnished;

(c) default which is not otherwise the subject of any other provision of this paragraph shall occur in the performance of any of the covenants or agreements of Mortgagor or any Obligor contained in the Note, this Mortgage, any guaranty, or any other Loan Document and such default is not capable of being cured, or if capable of being cured shall continue uncured to the reasonable satisfaction of Mortgagee for a period of 30 days after written notice thereof from Mortgagee to Mortgagor, or such other lesser or greater period of time, if any, with or without notice as specifically set forth in the applicable document or instrument;

(d) the commencement of a proceeding by or against Mortgagor for dissolution or liquidation, the voluntary or involuntary termination or dissolution of Mortgagor or the merger or consolidation of Mortgagor with or into another entity;

(e) the insolvency of, the business failure of, the appointment of a custodian, trustee, liquidator or receiver for or for any of the property of, the assignment for the benefit of creditors by, or the filing of a petition under bankruptcy, insolvency or debtor's relief law or the filing of a petition for any adjustment of indebtedness, composition or extension by or against Mortgagor;

(f) the entry of a judgment against Mortgagor which Mortgagee deems to be of a material nature, in Mortgagee's sole discretion, which is not released, satisfied or transferred to bond or other security within 30 days of the entry thereof;

(g) the seizure or forfeiture of, or the issuance of any writ of possession, garnishment or attachment, or any turnover order for any property of Mortgagor, including without limitation the Mortgaged Property; or

(h) should Mortgagee's liens, mortgages or security interests, including without limitation this Mortgage, in any of the collateral for the Note, including without limitation the Mortgaged Property, become unenforceable, or cease to be priority liens, mortgages or security interests, subject to the First Mortgage;

**5.02 Remedies of Mortgagee.** Upon the occurrence of any Event of Default, the Mortgagee may immediately do any one or more of the following:

(a) Declare the outstanding principal amount of the Note and the interest accrued thereon, and all other sums comprising the Secured Indebtedness, to be due and payable immediately, and upon such declaration such principal and interest and other sums shall immediately become due and payable without

demand, notice or presentment for payment.

(b) Mortgagee may proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term hereof or any other right; (ii) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property under the judgment or decree of the court or courts of competent jurisdiction; (iii) to collect all Rents, issues, profits, revenues, income, proceeds or other benefits from the Mortgaged Property; (iv) to seek appointment of a receiver to enter upon and take possession of the Mortgaged Property and to collect all Rents, issues, profits, revenues, income or other benefits thereof and apply the same as the court may direct and such receiver shall have all rights and powers permitted under law; (v) to pursue any other remedy available to it, including, but not limited to, taking possession of the Mortgaged Property without notice or hearing to Mortgagor; or (vi) to surrender all insurance policies. Mortgagee shall take action either by such proceedings or by the exercise of its power with respect to entry or taking possession, or both as Mortgagee may determine.

(c) Pursue any and all remedies available under the Code, it being agreed that 10 days' notice as to the time, date and place of any proposed sale shall be reasonable.

(d) Exercise any and all rights or other remedies as contained in the other Loan Documents.

**5.03 Remedies Cumulative.** The rights of Mortgagee and its successors and assigns hereunder or under any other Loan Document, shall be separate, distinct and cumulative of other powers and rights herein granted and all other rights which Mortgagee may have in law or equity, and none of them shall be in exclusion of the others; and all of them are cumulative to the remedies for collection of indebtedness, enforcement of rights under mortgages, and preservation of security as provided at law. No act of Mortgagee or its successors or assigns, shall be construed as an election to proceed under any one provision to the exclusion of any other provision, or an election of remedies to the bar of any other remedy allowed at law or in equity, anything herein or otherwise to the contrary notwithstanding.

## **ARTICLE SIX SECURITY AGREEMENT**

**6.01 Grant and Perfection of Security Interest.** Mortgagor hereby transfers, assigns, delivers and grants to Mortgagee a security interest in and right of set-off against the Personal Property as security for payment of the Secured Indebtedness. Mortgagor hereby authorizes Mortgagee to file in each and every jurisdiction as Mortgagee shall determine one or more financing statements (or a photocopy of this Mortgage in substitution for a financing statement), continuation statements or amendments thereto as Mortgagee shall at any time or from time to time determine, and otherwise containing such information as is required or is permissible to be contained in a financing statement filed pursuant to Article 9 of the Code. Mortgagor shall have possession of the Personal Property, except to the extent otherwise expressly provided in this Mortgage or where Mortgagor elects, in its sole and absolute discretion, to perfect its security interest by possession in addition to or instead of filing of a financing statement. To the extent that any Personal Property is in the possession of a third party, Mortgagor agrees that it shall join with Mortgagee, and take such other steps as Mortgagee shall require, in notifying, but also hereby authorizes Mortgagee to directly notify without Mortgagor's joinder, the third party of Mortgagee's security interest and obtaining an acknowledgment in such form or forms as Mortgagee shall require from the third party that it is holding the Personal Property or such portion as is held by the third party for the benefit of the Mortgagee and subject to the security interest granted herein and the operation of this Mortgage. Mortgagor agrees that it shall join with Mortgagee, and take such other steps as Mortgagee shall require, in obtaining "control" of any Investment Property, Deposit Accounts, Letter of Credit Rights or Electronic Chattel Paper (as such terms are defined in the Code) forming any part of the Personal Property, with any agreements establishing control to be in form and substance satisfactory to Mortgagee.

**6.02 Notice of Change in Location.** Mortgagor covenants and agrees that in the event that the state of its "location," as used in the Code, shall change from its "location" existing as of the date hereof, Mortgagor shall notify Mortgagee in writing within fifteen (15) days thereof and shall further provide to Mortgagee the state of its location and shall take all such actions as are required in order to perfect or continue the perfection of Mortgagee's security interest in the Personal Property.

**6.03 Assignment of Non-Code Personal Property.** To the extent that any of the Personal Property is not subject to the Code, Mortgagor hereby assigns to Mortgagee all of Mortgagor's right, title, and interest in and to the Personal Property to secure the Secured Indebtedness, together with the right of set-off with regard to such Personal Property (or any part hereof). Release of the lien of this Mortgage shall automatically terminate this assignment.

## **ARTICLE SEVEN ASSIGNMENT OF RENTS**

**7.01 Assignment.** Mortgagor does hereby grant, transfer and assign unto Mortgagee (i) the Leases; (ii) any and all guaranties of payment or performance of the obligations of any lessee under any Leases; and (iii) all Rents or issues from the Mortgaged Property; **provided, however**, that Mortgagee hereby grants to Mortgagor a license to collect and receive all Rents, which license shall be revocable by notice from Mortgagee to Mortgagor at any time after the occurrence and during the continuation of an Event of Default.

**7.02 No Liability on Mortgagee.** Mortgagee shall not be liable for any loss sustained by Mortgagor resulting from Mortgagee's failure to let the Mortgaged Property, or any part thereof, after an Event of Default or from any other act or omission of Mortgagee in managing the Mortgaged Property, or any part thereof. Mortgagee shall not be obligated to perform or discharge, any obligation, duty or liability under the Leases and Mortgagor shall indemnify Mortgagee for, and hold Mortgagee harmless from, any and all liability, loss or damage which may or might be incurred under the Leases, and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should Mortgagee incur any such liability under the Leases or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees shall be secured hereby and Mortgagor shall reimburse Mortgagee therefor immediately upon demand, and upon the failure of Mortgagor to do so Mortgagee may, at its option, declare the Secured Indebtedness immediately due and payable.

**7.03 Covenants Regarding Leases.** With respect to the Leases from time to time or at any time existing, Mortgagor shall (i) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with, the Leases, (ii) not receive or collect any Rents from any of the Leases for a period of more than one (1) month in advance, (iii) not waive, discount, set-off, compromise, or in any manner release or discharge any lessee, of and from any obligations, covenants, conditions and agreements by such lessee under its Lease, (iv) not terminate or consent to any surrender of any Lease, or modify or in any way alter the terms thereof, without the prior written consent of Mortgagee, and shall use all reasonable efforts to maintain each of the Leases in full force and effect during the term of this Mortgage, (v) not subordinate any Lease to any mortgage or other encumbrance (other than the lien of this Mortgage), and (vi) shall (A) obtain Mortgagee's approval as to the form and substance of each Lease or amendment thereto, (B) deliver to Mortgagee, true and complete copies of the Leases and any amendments thereto, (C) not enter into any oral leases or any side agreements with respect to a Lease with any Lessee, except upon notice to and approval in writing by Mortgagee, (D) not execute any Lease except for actual occupancy by the lessee thereunder, and (E) from time to time upon request of Mortgagee, furnish to Mortgagee a written certification signed by Mortgagor describing all then existing Leases and the names of the tenants and Rents payable thereunder.

## **ARTICLE EIGHT MISCELLANEOUS**

**8.01 Marshaling.** Mortgagor hereby waives all rights of marshaling in the event of any foreclosure of the liens hereby created.

**8.02 Reserve for Taxes and Insurance.** Upon notification from Mortgagee, Mortgagor shall create a fund or reserve for the payment of all ground rentals, insurance premiums, taxes, and assessments against the Mortgaged Property by paying the Mortgagee, contemporaneously with each installment of principal and interest on the Note, a sum equal to the rentals payable by Mortgagor to any lessor of the Mortgaged Property, or any part thereof, plus the premiums that will become due and payable on the

insurance policies covering the Mortgaged Property, or any part thereof, plus taxes and assessments next due on the Mortgaged Property, or any part thereof, as estimated by Mortgagee, less all sums paid previously to Mortgagee therefor, divided by the number of installments of principal and/or interest to elapse before one month prior to the date when such ground rentals, premiums, taxes, and assessments will become delinquent, such sums to be held by Mortgagee, without interest, for the purposes of paying such ground rentals, premiums, taxes, and assessments. Prior to the occurrence of a Default, Mortgagee shall apply such sums to the payment of such ground rentals, premiums, taxes and assessments. After the occurrence and during the continuation of a Default, Mortgagee may, in its sole discretion, apply such sums to the payment of such expenses or to the Secured Indebtedness. Any excess reserve shall, at the discretion of Mortgagee, be credited by Mortgagee on subsequent payments to be made on the Secured Indebtedness by Mortgagor, and any deficiency shall be paid by Mortgagor to Mortgagee on or before the date when such ground rentals, premiums, taxes, and assessments, shall have become delinquent.

**8.03 Condemnation and Eminent Domain.** Mortgagee shall be entitled to receive any and all sums which may be awarded or become payable to Mortgagor for the condemnation of, or taking upon exercise of the right of eminent domain with respect to, any of the Mortgaged Property or as a result of private sale in lieu thereof, and any sums which may be awarded or become payable to Mortgagor for damages caused by public works or construction on or near the Mortgaged Property. Mortgagor shall give immediate written notice to Mortgagee of any such proceedings affecting the Mortgaged Property, and shall afford Mortgagee an opportunity to participate in any proceeding or settlement of awards with respect thereto. All sums are hereby assigned to Mortgagee, and Mortgagor shall, upon request of Mortgagee, make, execute, acknowledge, and deliver any and all additional assignments and documents as may be necessary from time to time to enable Mortgagee to collect and receipt for any such sums. Mortgagee shall not be, under any circumstances, liable or responsible for failure to collect, or exercise diligence in the collection of, any of such sums. Any sums so collected shall be applied by Mortgagee, first, to the expenses, if any, of collection, and then to the Secured Indebtedness, and if any sums then be remaining then to Mortgagor, except as otherwise provided in the Loan Agreement executed simultaneously herewith.

**8.04 Insurance Proceeds.** Mortgagee is authorized and empowered to collect and receive the proceeds of any and all insurance that may become payable with respect to any of the Mortgaged Property. In event of any casualty loss, Mortgagor shall give immediate notice by mail to Mortgagee and Mortgagee may make proof of loss if not made promptly by Mortgagor, and each insurance company concerned is hereby authorized and directed to make payments for such loss directly to Mortgagee instead of to Mortgagor or to Mortgagor and Mortgagee jointly. The insurance proceeds or any part hereof may be applied by Mortgagee at its option, after deducting therefrom all its expenses including attorneys' fees, either to reduction of the Secured Indebtedness or the restoration or repair of the property damaged, except as otherwise provided for in the Loan Agreement executed simultaneously herewith. Mortgagee is hereby authorized, at its option, to settle and compromise any claims, awards, damages, rights of action and proceeds, and any other payment or relief under any insurance policy. In the event of foreclosure of this Mortgage or other transfer of title to the Mortgaged Property in extinguishment of the Secured Indebtedness, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee.

**8.05 Illegality.** If any provision of this Mortgage is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Mortgage, the legality, validity, and enforceability of the remaining provisions of this Mortgage shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision there shall be added automatically as a part of this Mortgage a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

**8.06 Counterparts.** This Mortgage may have simultaneously been executed in a number of identical counterparts, each of which, for all purposes, shall be deemed an original.

**8.07 Exhibits.** All exhibits attached hereto are by this reference made a part hereof.

**8.08 Indemnity.** Mortgagor hereby agrees to indemnify and hold Mortgagee harmless from and against, any and all losses, damages, claims, costs, penalties, causes of action, liabilities and expenses,

including court costs and attorneys' fees, howsoever arising (including, without limitation, for injuries to or deaths of persons and damage to property), from or incident to the ownership of the Mortgaged Property and development, use, possession, maintenance, management, and construction.

**8.09 Singular; Plural.** Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

**8.10 Headings.** The captions, headings, and arrangements used in this Mortgage are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

**8.11 Notices.** Whenever this Mortgage requires or permits any consent, approval, notice, request, or demand from one party to another, the consent, approval, notice, request, or demand must be in writing to be effective and shall be deemed to have been given when personally delivered or deposited in the United States mails, registered or certified, return receipt requested, addressed to the party to be notified at the address set forth in the preamble hereof (or at such other address as may have been designated by written notice).

**8.12 Governing Laws.** This Mortgage and all other Loan Documents will be governed by federal law applicable to Mortgagee and, to the extent not preempted by federal law, the laws of the State of Florida without regard to its conflicts of law provisions. This Mortgage has been accepted by Mortgagee in the State of Florida.

**8.13 Time of Essence.** Time is of the essence of this Mortgage.

**8.14 Fixture Filing.** This Mortgage shall also constitute a security agreement with respect to the Personal Property and a "fixture filing" for purposes of the Code. Portions of the Personal Property are or may become fixtures. Information concerning the security interests herein granted may be obtained at the addresses stated in the preamble hereof.

**8.15 Financing Statement.** Mortgagee shall have the right at any time to file this Mortgage as a financing statement, but the failure to do so shall not impair the validity and enforceability of this Mortgage in any respect whatsoever. A carbon, photographic, or other reproduction of this Mortgage, or any financing statement relating to this Mortgage, shall be sufficient as a financing statement.

**8.16 Entire Agreements; Amendments.** This Mortgage, the Note and the other documents executed in connection herewith represent the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties. This Mortgage cannot be amended except by agreement in writing by the party against whom enforcement of the amendment is sought.

**8.17 No Right of Setoff.** No setoff or claim that Mortgagor may now or in the future have against Mortgagee shall relieve or excuse Mortgagor from paying the installments under the Note or performing any other obligation secured hereby when the same is due.

**8.18 Mortgagee Liability.** Mortgagee shall not be liable for any error of judgment or act done by Mortgagee in good faith, or be otherwise responsible or accountable to Mortgagor under any circumstances whatsoever, nor shall Mortgagee be personally liable in case of entry by Mortgagee, or anyone entering by virtue of the powers herein granted, upon the Mortgaged Property or for debt contracted or for damages incurred in the management or operation of the Mortgaged Property. Mortgagee shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by Mortgagee hereunder, believed by Mortgagee in good faith to be genuine.

**8.19 Right to Modify.** Without affecting the obligation of Mortgagor to pay and perform as herein required, without affecting the personal liability of any person for payment of the Obligations including without limitation the Secured Indebtedness, and without affecting the lien or priority of the lien hereof on the Mortgaged Property, Mortgagee may, at its option, extend the time for payment of the Obligations or any portion thereof, reduce the payments thereon, release any person liable on any portion of the

Obligations, accept a renewal note or notes therefor, modify the terms of the Secured Indebtedness, release or reconvey any part of the Mortgaged Property, take or release other or additional security, consent to the making of any map or plat thereof, join in granting any easement thereon, or join in any extension agreement or agreement subordinating the lien hereof. Any such action by Mortgagee may be taken without Mortgagor's consent and without the consent of any subordinate lienholder, and shall not affect the priority of this Mortgage over any subordinate lien.

**8.20 Expenses of Recording.** Mortgagor agrees to pay all recording fees, documentary stamp taxes, intangible taxes, charges and filing, registration and recording fees imposed upon this Mortgage, the recording or filing thereof, or upon the Mortgagee by reason of its ownership of this Mortgage, or its enforcement thereof.

**8.21 Attorneys' Fees.** The term "**attorneys' fees**" as used herein shall also include charges for paralegals, law clerks and other staff members operating under the supervision of an attorney. Any award or payment of attorneys' fees hereunder or by order of a court of competent jurisdiction shall include as a part thereof any and all sales and/or use taxes imposed thereon by any appropriate governmental authority.

**8.22 Future Advances.** Any additional sum or sums advanced by the then holder of the Note secured hereby, to or for the benefit of Mortgagor, whether obligatory or made at the option of Mortgagee, or otherwise, at any time within twenty (20) years from the date of this Mortgage, with interest at the rate agreed upon at the time of each additional loan or advance, shall be equally secured with and have the same priority as the original indebtedness and be subject to all of the terms and provisions of this Mortgage, whether or not such additional loan or advance is evidenced by a promissory note of the Mortgagors and whether or not identified by a recital that it is secured by this Mortgage; provided that the aggregate amount of principal indebtedness outstanding and so secured at any one time shall not exceed a maximum principal sum equal to two (2) times the face amount of the Note, plus interest thereon and any disbursements made for the payment of taxes, levies, insurance or other sums in connection with the Mortgaged Property with interest on such disbursements.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, Mortgagor, intending to be legally bound hereby, has executed this Mortgage as of the day and year first above written.

Mortgagor:

LAKE WALES CHARTER SCHOOLS, INC.  
a Florida non-profit corporation

\_\_\_\_\_  
Witness: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Witness: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF POLK

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_\_ day of September, 2021, by means of  physical presence or  online notarization by \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of LAKE WALES CHARTER SCHOOLS, INC., a Florida non-profit corporation, who  is personally known to me or  produced identification in the form of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

EXHIBITS:

A - Legal Description of Land

Exhibit A

