

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

TYPE IN BLACK INK:
NAME(S) OF PARTY(S) TO DOCUMENT



River to River Holding LLC
and Orange County
Industrial Development
Agency TO

SECTION 20 BLOCK 1 LOT 65.2

RECORD AND RETURN TO:
(name and address)

Walden Savings Bank

Walden Savings Bank
15 Scotts Corners Dr
Montgomery NY 12549

THIS IS PAGE ONE OF THE RECORDING

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

2089 BLOOMING GROVE (TN)
2001 WASHINGTONVILLE (VLG)
2289 CHESTER (TN)
2201 CHESTER (VLG)
2489 CORNWALL (TN)
2401 CORNWALL (VLG)
2600 CRAWFORD (TN)
2800 DEERPARK (TN)
3089 GOSHEN (TN)
3001 GOSHEN (VLG)
3003 FLORIDA (VLG)
3005 CHESTER (VLG)
3200 GREENVILLE (TN)
3489 HAMPTONBURGH (TN)
3401 MAYBROOK (VLG)
3689 HIGHLANDS (TN)
3601 HIGHLAND FALLS (VLG)
3889 MINISINK (TN)
3801 UNIONVILLE (VLG)
4089 MONROE (TN)
4001 MONROE (VLG)
4003 HARRIMAN (VLG)
4005 KIRYAS JOEL (VLG)

4289 MONTGOMERY (TN)
4201 MAYBROOK (VLG)
4203 MONTGOMERY (VLG)
4205 WALDEN (VLG)
4489 MOUNT HOPE (TN)
4401 OTISVILLE (VLG)
4600 NEWBURGH (TN)
4800 NEW WINDSOR (TN)
5089 TUXEDO (TN)
5001 TUXEDO PARK (VLG)
5200 WALLKILL (TN)
5489 WARWICK (TN)
5401 FLORIDA (VLG)
5403 GREENWOOD LAKE (VLG)
5405 WARWICK (VLG)
5600 WAWAYANDA (TN)
5889 WOODBURY (TN)
5801 HARRIMAN (VLG)

CITIES
0900 MIDDLETOWN
1100 NEWBURGH
1300 PORT JERVIS
9999 HOLD

NO PAGES 33 CROSS REF.
CERT. COPY ADD'L X-REF.
MAP# PGS.
PAYMENT TYPE: CHECK
CASH
CHARGE
NO FEE

Taxable
CONSIDERATION \$
TAX EXEMPT
Taxable
MORTGAGE AMT. \$2,400,000
DATE

MORTGAGE TAX TYPE:
 (A) COMMERCIAL/FULL 1%
 (B) 1 OR 2-FAMILY
 (C) UNDER \$10,000
 (E) EXEMPT
 (F) 3 TO 6 UNITS
 (I) NAT.PERSON/CR. UNION
 (J) NAT.PER-CR.UN/1 OR 2
 (K) CONDO

Donna L. Benson
DONNA L. BENSON
ORANGE COUNTY CLERK

RECEIVED FROM: *Bill in Dale*

RECORDED/FILED
09/01/2006/ 09:39:47
County Clerk
DONNA L. BENSON
ORANGE COUNTY, NY

FILE # 20060096133
MORT/BK 12247 PG 1910
SER# CX011895 MTAX 0.00
BASIC 0.00
MTA 0.00
SPECIAL 0.00
SPECIAL ASST 0.00
RECORDING FEES 124.00
Receipt#625985 joanned

STATE OF NEW YORK, COUNTY OF ORANGE, CLERK OF THE SUPREME AND COUNTY COURTS, ORANGE COUNTY, DO HEREBY CERTIFY THAT I HAVE COMPARED THIS COPY WITH THE ORIGINAL THEREOF FILED OR RECORDED IN MY OFFICE ON 9-1-06 AND THE SAME IS A CORRECT TRANSCRIPT THEREOF.
IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL 9-8-06 *Donna L. Benson*
COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS, ORANGE COUNTY



HN 36836

WALDEN SAVINGS BANK

MORTGAGE

This Mortgage, made as of the 30th day of August 2006, between **RIVER TO RIVER HOLDING LLC** a Limited Liability Company with an office at 11 Racquet Road, Newburgh, New York 12550, the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** a public benefit corporation with an office at 255-275 Main Street, Goshen New York (the "**Mortgagor**") and **WALDEN SAVINGS BANK**, A New York Savings Bank with a place of business at Crossroads Corporate Park, 15 Scott's Corners Drive, Montgomery, New York 12549 (the "**Mortgagee**").

WITNESSETH, that to secure the payment of a certain indebtedness in the sum of **TWO MILLION FOUR HUNDRED THOUSAND AND 00/100 (\$2,400,000.00) DOLLARS**, lawful money of the United States (the "**Mortgage Amount**"), to be paid according to a certain bond, note or obligation bearing even date herewith and made a part hereof (the "**Note**"), and all other obligations and liabilities due or to grow due to the Mortgagee under the terms of this Mortgage and the Note, together with all interest on the said indebtedness, obligations and liabilities (all of the aforesaid are hereinafter collectively referred to as the "**Indebtedness**"), the Mortgagor hereby pledges and grants a security interest to the Mortgagee and hereby gives, mortgages, grants, bargains, sells, warrants, conveys, aliens, remise, releases, assigns, sets over and confirms to the Mortgagee:

ALL that certain lot, piece or parcel of land or leasehold estate more particularly described in Schedule "A" annexed hereto and by this reference made a part hereof (said land or leasehold estate, together with the property and fixtures and other rights, privileges and interest encumbered or conveyed hereby, and hereinafter collectively referred to as the "**Premises**").

TOGETHER with the buildings and improvements now or hereafter located at the Premises and all right, title and interest, if any, of the Mortgagor in and to the streets and roads abutting the Premises to the center lines thereof, any strips and gores within or adjoining the Premises, the air space and right to use said air space above the Premises, royalties and all rights appertaining to the use and the enjoyment of the Premises, including, without limitation, alley, drainage, mineral, water, oil and gas rights.

TOGETHER with all right, title and interest of the Mortgagor in and to all awards heretofore made or hereafter to be made for the taking by eminent domain of the whole or any part of the premises, or any estate or easement therein, including any awards for change of grade of streets, all of which awards are hereby assigned to the Mortgagee, which is hereby authorized to collect and receive the proceeds of such awards and to give proper receipts and acquittances therefor and the Mortgagee shall have the right and option to apply such excess towards the payment of any sum owing on account of this Mortgage, the Note and the indebtedness secured thereby, notwithstanding the fact that such sum may not then be due and payable.

TOGETHER with all fixtures and articles of personal property and all appurtenances and additions thereto and replacements thereof, owned by the Mortgagor and now or hereafter attached to, contained in, or used in connection with the Premises or placed on any part thereof, though not

attached thereto, including, but not limited to, all screens, awnings, shades, blinds, curtains, draperies, carpets, rugs, furniture and furnishings, heating, light, plumbing, ventilating, refrigerating, incinerating, and elevator plants, stoves, ranges, vacuum cleaning systems, call systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery, pipes, appliances, equipment, fittings and fixtures. Without limiting the foregoing, the Mortgagor hereby grants to the Mortgagee a security interest in all of the Mortgagor's present and future "equipment" and "general intangibles" (as said quoted terms are defined in the Uniform Commercial Code of the State wherein the Premises is located) and the Mortgagee shall have, in addition to all rights and remedies provided herein and in any other agreements, commitments and undertakings made by the Mortgagor to the Mortgagee, all of the rights and remedies of a "secured party" under the said Uniform Commercial Code. To the extent permitted under applicable law, this Mortgage shall be deemed to be a "security agreement" (as defined in the aforesaid Uniform Commercial Code). If the lien of this Mortgage is subject to a security interest covering any such personal property, then all of the right, title and interest of the Mortgagor in and to any and all such property is hereby assigned to the Mortgagee, together with the benefits of all deposits and payments now or hereafter made thereon by the Mortgagor.

TOGETHER with all present and future leases, subleases and licenses and any guarantees thereof, rents, issues and profits and additional rents now or at any time hereafter covering or affecting all or any portion of the Premises and all proceeds of, and all privileges and appurtenances belonging or in any way appertaining to the Premises, or any part thereof (the "Rents"), and all other property subjected or required to be subjected to the lien and/or security interest of this Mortgage, including, without limitation, all of the income, revenues, earnings, rents, maintenance payments, tolls, issues, awards (including, without limitation, condemnation awards and insurance proceeds), products and profits thereof, which income revenues, earnings, rents, maintenance payments, tolls, issues, awards, products and profits are hereby expressly assigned with the right to take and collect the same upon the terms hereinafter set forth; and all the estate, right, title, interest and claim whatsoever, at law and in equity, which Mortgagor now has or may hereafter acquire in and to the Premises and every part thereof, provided that so long as no Event of Default (as hereinafter defined) shall have occurred and be continuing, all such income, revenues, earnings, rents, maintenance payments, tolls, issues, awards, products and profit shall remain with and under the control of Mortgagor except as otherwise expressly provided herein or in any other agreement between the Mortgagor and the Mortgagee.

TOGETHER with all right, title and interest of the Mortgagor in any and all other agreements relative to the Premises, including, without limitation, plans and specifications, permits, bonds, contracts, agreements with regard to construction, management, maintenance, leasing or operating of the Premises, whether already existing or to be executed in the future and any and all building materials, furnishings, fixtures, equipment and personal property owned or to be acquired or leased or to be leased by the Mortgagor and located at or within, or used in connection with the Premises.

TOGETHER with all unearned premiums accrued, accruing or to accrue under insurance policies now or hereafter obtained by the Mortgagor and all proceeds of the conversion, voluntary or involuntary, of the Premises or any part thereof into cash or liquidated claims, including, without limitation, proceeds of hazard and title insurance and all awards and compensation heretofore and hereafter made to the present and all subsequent owners of the Premises by any governmental or other lawful authorities for the taking by eminent domain, condemnation or otherwise, of all or any part of the Premises or any easement therein, including awards for any change of grade of streets.

TOGETHER with all of the Mortgagor's claims and rights to the payment of damages arising from any rejection of any leasehold estate under or pursuant to the Bankruptcy Code, 11 U.S.C. Section 101, et seq.

TOGETHER with all of the Mortgagor's rights and remedies at any time arising under or pursuant to Section 365 (h) of the Bankruptcy Code, 11 U.S.C. Section 365 (h), including without limitation, all of Mortgagor's rights to remain in possession of the Premises

AND the Mortgagor covenants with the Mortgagee as follows:

1. The Mortgagor will pay the Indebtedness as provided herein and in the Note.
2. The Mortgagor will keep the buildings and improvements now or hereafter located on the Premises insured against casualty loss, damage by fire and such other insurable hazards as the Mortgagee may require and each policy shall be endorsed to name Mortgagee as an insured thereunder, as its interest may appear, with loss payable to the Mortgagee, without contribution, under a standard New York mortgagee clause. In addition, from time to time, upon the occurrence of any change in the use, operation or value of the Premises, or in the availability of insurance in the area in which the Premises is located, the Mortgagor shall, within five (5) days after demand by the Mortgagee, take out such additional amounts and/or such other kinds of insurance as the Mortgagee may reasonably require. The Mortgagor will also at the request of the Mortgagee obtain at its cost and expense insurance against special environmental matters as the Mortgagee may reasonably require. Otherwise, the Mortgagor shall not take out any separate or additional insurance which is contributing in the event of loss unless it is properly endorsed or otherwise satisfactory to the Mortgagee in all respects. In the event the Mortgagor fails to keep the buildings and improvements insured in compliance with this paragraph, the Mortgagee may obtain insurance and pay the premiums therefor and the Mortgagor shall, on demand, reimburse the Mortgagee for all sums advanced and expenses incurred in connection therewith. The Mortgagor shall deliver all original policies to the Mortgagee except when said original policies have been delivered to a prior mortgagee, in which case the Mortgagor shall deliver copies thereof to the Mortgagee together with the endorsements thereto required hereunder. The proceeds of insurance paid on account of any loss or damage to the Premises or any part thereof shall be paid over to the Mortgagee to be applied, at the option of the Mortgagee, (a) to the payment of the Indebtedness (whether or not then due and payable), and/or (b) to the reimbursement of the Mortgagee for the costs, if any, incurred by the Mortgagee in connection with the collection of insurance proceeds and/or (c) to the reimbursement of the Mortgagor for expenses actually incurred by it in the restoration of the Premises, which reimbursement shall be made in such manner and at such time as the Mortgagee shall determine. Notwithstanding anything to the contrary contained herein or in Section 254 of the Real Property Law of the State of New York or any other provision of applicable law, the proceeds of insurance policies coming into the possession of the Mortgagee shall not be deemed trust funds and the Mortgagee shall be entitled to dispose of such proceeds as hereinabove provided. In the event the proceeds are used to reduce the Indebtedness, same shall be applied to the then unpaid installments of principal due under the Note in the inverse order of their maturity, such that the regular payments thereunder shall not be reduced or altered in any manner.

3. The Mortgagor shall pay when due all taxes, sewer rents and assessments and other charges against the Premises or any part thereof, unless the Mortgagor is making monthly deposits with the Mortgagee in accordance with Paragraph "17" hereof, the Mortgagor shall exhibit to the Mortgagee, within five (5) days after the same shall have become due, validated receipts showing the payment of such taxes, assessments, water rates, sewer rents and other charges which may be or become a prior lien on the Premises. Should the Mortgagor default in payment of any of the foregoing taxes, assessments, water rates, sewer rents or other charges, the Mortgagee may, but shall not be obligated to, pay the same or any part thereof and the Mortgagor shall, on demand, reimburse the Mortgagee for all amounts so paid, together with interest thereon at the rate provided for in Paragraph "11" hereof.

4. The Mortgagor, within five (5) days upon request in person or within ten (10) days upon request by mail, will furnish a written statement, duly acknowledged, setting forth the amount due on this Mortgage, the terms of payment and maturity date of the Note, the date to which interest has been paid, whether any offsets or defenses exist against the Indebtedness and, if any are alleged to exist, the nature thereof shall be set forth in detail.

5. All notice hereunder or under any applicable law pertaining hereto (including, without limitation, Article 14 of the New York Real Property Actions and Proceeding Law) shall be in writing and shall be deemed sufficiently given or served for all purposes when delivered (i) by personal service or courier service, and shall be deemed given on the date when signed for or, if refused, when refused by the person designated as an agent for receipt of service, (ii) by facsimile transmission, and shall be deemed given when printed confirmation of completion of transmission is generated by the sender's facsimile transmission instrument, or (iii) by United States certified mail, return receipt requested, postage prepaid, and shall be deemed given three (3) days after being sent, to any party hereto at the address set forth above or such other address of which a party shall have notified the party giving such notice in writing as aforesaid.

6. The Mortgagor warrants the title to the Premises and warrants that it has full power and lawful power and lawful authority to encumber the Premises in the manner and form herein set forth.

7. The Mortgagor shall maintain the Premises in good repair, shall comply with the requirements of any governmental authority claiming jurisdiction within thirty (30) days after an order containing such requirement has been issued by any such authority and shall permit the Mortgagee to enter upon the Premises and inspect the Premises at all reasonable hours and without prior notice. The Mortgagor shall not, without the prior written consent of the Mortgagee, threaten, commit, permit or suffer to occur any waste, demolition or removal of the Premises of any part thereof, provided, however, that fixtures and articles of personal property may be removed if the Mortgagor concurrently therewith replaces same with similar items of equal or greater value and adapted for the same use, free of any lien, charge or claim of superior title.

8. If any action or proceeding is commenced (except an action to foreclose this Mortgage or to collect the Indebtedness), to which action or proceeding the Mortgagee is made a party or in which it becomes necessary to defend or uphold the lien of this Mortgage, the Mortgagor, will, on demand, reimburse the Mortgagee for all expenses incurred by the Mortgagee in any such action or proceeding, including, without limitation, reasonable attorneys' fees. In any action or proceeding to foreclose this

Mortgage or to recover or collect the Indebtedness, the provisions of law relating to the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

9. The Mortgagor will receive the advances secured hereby, and will hold the right to receive such advances, as a trust fund to be applied first for the purpose of paying the cost of the improvements and the Mortgagor shall apply all advances first for the purpose of paying the cost of the improvements before using any part of such advances for any other purpose. If the Premises or any part thereof is located in the State of New York, the covenants of this paragraph are made subject to and in compliance with the trust fund provisions of Section 13 of the Lien Law of the State of New York.

10. In the event of any default in the performance of any of the terms, covenants or agreements herein contained, it is agreed that the then owner of the Premises, if it is the occupant of the Premises or any part thereof, shall immediately surrender possession of the Premises so occupied to the Mortgagee, and if such occupant is permitted to remain in possession, the possession shall be as tenant of the Mortgagee and such occupant shall, on demand, pay monthly in advance to the Mortgagee a reasonable rental for the space so occupied and in default thereof, such occupant may be dispossessed by the usual summary proceedings. The covenants herein contained may be enforced by any receiver of the Premises or any part thereof.

11. The Mortgagor shall pay when due any and all interest and other required payments and charges on all mortgages, liens, ground and other leases, and security interests which are or may be superior to the lien of this Mortgage, and in default thereof, the Mortgagee shall have the right, but shall not be obligated, to pay such interest, principal and other required payments and charges, and the Mortgagor will, on demand, reimburse the Mortgagee for the amount so paid. Upon default of the Mortgagor in the performance of any of the terms, covenants, conditions and obligations by it to be performed under any such prior mortgage, lease or security interest, the Mortgagee, shall have the option to perform any such terms, covenants, conditions and obligations in the name and on behalf of the Mortgagor. All sums advanced and expenses incurred at any time by the Mortgagee pursuant to this paragraph or as otherwise provided under the terms and provisions of this Mortgage or under applicable law shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at the Default Rate (as hereinafter defined) and such amounts advanced or incurred by the Mortgagee, together with the interest thereon, shall be a lien on the Premises as part of the Indebtedness.

12. All lease securities of tenants of the Premises shall be treated as trust funds not to be commingled with any other funds of the Mortgagor. Within ten (10) days after request by the Mortgagee, the Mortgagor shall furnish to the Mortgagee satisfactory evidence of compliance with this paragraph together with a statement of all lease securities deposited by the tenants and copies of all leases not theretofore delivered to the Mortgagee, certified by the Mortgagor.

13. The Mortgagor shall maintain records and accounts showing income and expenses in connection with the operation of the Premises and within one hundred twenty (120) days after the close of the fiscal year, the Mortgagor shall submit income tax returns (if such returns are required of the Mortgagor); personal financial statements, statements reflecting financial balance sheets and profit and loss operating figures and a certified rent roll. The statements shall be prepared annually by an independent certified public accountant, satisfactory to the Mortgagee, and shall be in

reasonable detail and prepared in accordance with generally accepted principles of accounting. The Mortgagee reserves the right to require certified statements should there be a default in the terms of the Mortgage. Failure to comply with this requirement within ten (10) days of written notice will constitute a default hereunder.

14. If the Premises, or any part thereof, are located in the state of New York, then all covenants hereof shall be construed as affording to the Mortgagee rights additional to and not exclusive of the rights conferred under the provision of Sections 254, 271 and 272 of the Real Property Law of the State of New York, or any other applicable law.

15. The following shall constitute events of default (each an **"Event of Default"**) under this Mortgage: (a) default in payment of principal, interest or other amounts required to be paid hereunder or under the Note and such default shall have continued for a period of ten (10) days, or (b) default in the due observance or performance of any of the terms, covenants, provisions or conditions of this Mortgage or the Note and such default shall have continued for a period of twenty (20) days after written notice specifying such default and demanding same be remedied shall have been given to the Mortgagor by the Mortgagee, or (c) default in payment or performance of any prior mortgage, lease or security agreement which is superior to the lien of this Mortgage or default in payment of any other obligations of the Mortgagor to the Mortgagee, or (d) should any representations made herein prove to be untrue, or (e) if the Mortgagor is a corporation, partnership, joint venture, limited liability company or limited liability partnership, the sale, assignment or pledge of any outstanding capital stock of the Mortgagor or of the interest of any general partner, joint venturer, member or partner of the Mortgagor, or (f) if upon application by the Mortgagor to two or more fire insurance companies which are lawfully doing business in the state wherein the Premises is located and which are issuing policies of fire insurance upon buildings situate in the area wherein the Premises is situate, and if the said companies shall refuse to issue such policies, or (g) if, by order of a court of competent jurisdiction, a receiver, liquidator or trustee of the Mortgagor or of any of its properties, shall be appointed and shall not have been discharged within ninety (90) days, or (h) if a petition in bankruptcy, insolvency proceedings or petition for reorganization shall have been filed against the Mortgagor and same is not withdrawn, dismissed, cancelled or terminated within ninety (90) days, or (i) if the Mortgagor is adjudicated bankrupt or insolvent or a petition for reorganization is granted (without regard for any grace period provided for herein), or (j) if there is an attachment or sequestration of any of the property of the Mortgagor and same is not discharged or bonded within ten (10) days, or (k) if the Mortgagor files or consents to the filing of any petition in bankruptcy or commences or consents to the commencement of any proceeding under the Federal Bankruptcy Act or any other law, now or hereafter in effect, relating to the reorganization of the Mortgagor or the arrangement or readjustment of the debts of the Mortgagor, or (l) if the Mortgagor shall make an assignment for the benefit of its creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver, trustee or liquidator of the Mortgagor or of all or any part of its property, or (m) if the Mortgagor is a corporation, partnership, joint venture, limited liability company or limited liability partnership, the Mortgagor, its directors, stockholders, partners, trustees or members, as the case may be, shall cause or institute any proceeding for the dissolution or termination of the Mortgagor or to liquidate, wind up or otherwise dispose of all or substantially all of the Mortgagor's real and/or personal property or consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it, or acquire any of the capital stock of any corporation, or (n) if the Mortgagor further assigns or encumbers the leases or rents of the Premises of any part thereof without the prior written consent of

the Mortgagee, or (o) in the event of the condemnation, taking or purchase in lieu thereof, of all or a material part of the Premises, or (p) if the Mortgagor further mortgages, pledges or otherwise encumbers the Premises or any part thereof or any interest therein or (q) if the Mortgagor sells, transfers, assigns, conveys or otherwise alienates, whether occurring by a voluntary or involuntary act, by operation of law, or otherwise the Premises or any part thereof or any interest therein, (the word "sells" includes entering into an installment contract of sale). (r) in the event any notice of mechanic's lien is filed which affects the Premises and such lien is not bonded or discharged within forty-five (45) days after such filing, or (s) if there shall be a material adverse change in the financial condition, business or operation of the Mortgagor or any guarantor, or if any other event or condition exists that, in the sole opinion of the Mortgagee, has or may have a material adverse effect on the financial or operational condition of the Mortgagor or any guarantor or the value of all or any material part of the collateral or other property of Mortgagor which secures the Indebtedness, or (t) failure of any guarantor of the Indebtedness to comply with such guarantor's obligations under any such guarantee, or (u) if the Mortgagor shall alter, modify, demolish the Premises or any part thereof in any manner without the Mortgagee's prior written consent (except as may be authorized by any building loan agreement executed in conjunction with this Mortgage), or (v) the Mortgagor shall be in default under any other mortgage covering any part of the Premises and proceedings shall have been commenced to foreclose such mortgage, whether it be superior or inferior to the lien of this Mortgage.

16. Notwithstanding any act which may constitute an Event of Default under this Paragraph "15" or under any other provision of this Mortgage, the Mortgagee may in any such event, condition its consent to or acquiescence in such an event which would otherwise be a default upon such increase in the rate of interest payable upon the Indebtedness hereby secured, change in monthly payments thereon, change in maturity thereof and/or the payment of a fee, all as the Mortgagee in its sole discretion may require; but the Mortgagee shall be under no obligation to grant such consent.

17. Upon the occurrence of any Event of Default hereunder the Mortgagee may take any such action, without notice or demand, as it deems advisable to protect and enforce its rights against the Mortgagor and in and to the Premises, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as the Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of the Mortgagee: (a) declare the entire unpaid Indebtedness to be immediately due and payable; or (b) enter into or upon the Premises, either personally or by its agents, nominees or attorneys, and dispossess the Mortgagor and its agents and servants therefrom, and thereupon the Mortgagee may (i) use, operate, manage, control, insure, maintain, restore and otherwise deal with all and every part of the Premises and conduct the business thereat; (ii) complete any construction on the Premises in such manner and form as the Mortgagee deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Premises; (iv) exercise all rights and powers of the Mortgagor with respect to the Premises, either in the name of the Mortgagor or otherwise, including without limitation, the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all earnings, revenues, rents, issues, profits and other income of the Premises and every part thereof; and (v) apply the receipts from the Premises to the payment of the Indebtedness, after deducting therefrom, all expenses incurred in connection with the aforesaid operations and all amounts necessary to pay the taxes, assessments, insurance and other charges in connection with the Premises; as well as just and reasonable compensation for the services of the Mortgagee, its counsel, agents and employees; and (c) institute proceedings for the complete foreclosure of this Mortgage in which case the Premises may be sold in one parcel; or (d)

sell the Premises or any part thereof and all estate, claim, demand, right, title and interest of the Mortgagor therein and right of the redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entity or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law, and in the event of a sale, by foreclosure or otherwise, of less than all of the Premises, this Mortgage shall continue as a lien on the remaining portion of the Premises; or (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in the Note; or (f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage; or (g) apply for the appointment of a trustee, receiver, liquidator or conservator of the Premises, without notice and without regard for the adequacy of the security for the Indebtedness and without regard for the solvency of any person, firm or other entity liable for the payment of the Indebtedness; or (h) pursue such other remedies as the Mortgagee may have under applicable law. Upon the sale of the Premises or any part thereof under the power of sale herein granted, or as a result of judicial proceedings or a judgment or decree of foreclosure, the Mortgagee may bid for and acquire the Premises or any part thereof, and credit against the Indebtedness the net sales price thereof after deducting therefrom all expenses of the sale and proceedings in connection therewith and all other items which mortgagee is authorized to deduct under this Mortgage, the Note and applicable law. The Mortgagee and any receiver of the Premises or any part thereof shall be liable to account for only those rents, issues and profits actually received by it. In addition to the foregoing and upon the occurrence of any Event of Default hereunder and if by reason thereof the Mortgagee elects to declare the Indebtedness to be immediately due and payable, then in such event the prepayment consideration provided for herein or in the Note shall become due and payable on the date of such election in the same manner as though the Mortgagor had exercised such right of prepayment as herein or therein set forth. In the event of such election by the Mortgagee prior to the earliest date upon which the Mortgagor has a right of prepayment, then in such event the prepayment consideration applicable upon the earliest date on which the Mortgagor has such right of prepayment shall apply. The amount of such prepayment consideration computed on the principal amount of the Indebtedness as of the aforesaid date shall be added to the Indebtedness and deemed secured by this Mortgage and shall be recoverable by the Mortgagee in the same manner as the Indebtedness in any action brought on the Note or for foreclosure of this Mortgage.

18. In addition to any other remedy provided hereunder and pursuant to Article 14 of the New York Real Property Actions and Proceedings Law the, Mortgagee may, either with or without entry or taking possession of the Premises as provided in this Mortgage or otherwise, personally or by its agents or attorneys, and without prejudice to the right to bring an action of foreclosure of this Mortgage, sell the Premises or any part thereof pursuant to any procedures provided by applicable law, including, without limitation, the procedures set forth in Article 14 of the New York Real Property Actions and Proceedings Law (and any amendments or substitute statutes in regard thereto), and all estate, right, interest, claim and demand therein, and right of redemption thereof, at one or more sales as an entity or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by applicable law.

19. In the event the Mortgagor shall fail forthwith to pay the amounts secured hereby upon such demand, the Mortgagee shall be entitled and empowered to institute such action or proceedings at law or in equity as may be advised by its counsel for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Mortgagor and collect, out of the property of the Mortgagor

wherever situated, as well as out of the Premises, in any manner provided by law, moneys adjudged or decreed to be payable. The Mortgagee shall be entitled to recover judgment as aforesaid either before or after or during the pendency of any proceeding for the enforcement of the provisions of this Mortgage; and the right of the Mortgagee to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any right, power or remedy for the enforcement of the provisions of this Mortgage, or the foreclosure of the lien hereof. In case of proceedings against the Mortgagor in insolvency or bankruptcy or any proceedings for its reorganization or involving the liquidation of its assets, then the Mortgagee shall be entitled to prove the whole amount of principal and interest due upon the Note to the full amount thereof, and all other payments, charges and costs due under this Mortgage, without deducting therefrom any proceeds obtained from the sale of the whole or any part of the Premises, provided, however, that in no case shall the Mortgagee receive a greater amount than such principal and interest and such other payments, charges and costs from the aggregate amount of the proceeds of the sale of the Premises and the distribution from the estate of the Mortgagor.

20. No recovery of any judgment by the Mortgagee and no levy of an execution under any judgment upon the Premises or upon any other property of the Mortgagor shall affect in any manner or to any extent, the lien of this Mortgage upon the Premises or any part thereof, or any liens, rights, powers or remedies of the Mortgagee hereunder, but such liens, rights, power and remedies of the Mortgagee shall continue unimpaired as before.

21. The Mortgagee shall have the right from time to time to recover any sum or sums which constitute a part of the Indebtedness as the same become due, without regard to whether or not the balance of the Indebtedness shall be due, and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced.

22. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy or remedies and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by status. No delay or omission of the Mortgagee to exercise any right or power accruing upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Event of Default or any acquiescence therein; and every power and remedy given by this Mortgage to the Mortgagee may be exercised from time to time as often as may be deemed expedient by the Mortgagee. Nothing in this Mortgage or in the Note shall affect the obligation of the Mortgagor to pay the principal of, and interest on, the Note in the manner and at the time and place therein respectively expressed.

23. The Mortgagor will, on demand, reimburse the Mortgagee for all expenses, including, without limitations, the fees and expenses of Mortgagee's legal counsel incurred by Mortgagee in connection with the preparation, administration, amendment, modification or enforcement of the Note or other obligation, including, without limitation, attorney's fees and costs incurred by the Mortgagee in connection with the cost of collecting and satisfying any judgment that may be recovered by Mortgagee.

24. The Mortgagor agrees that the provision of the Note (and the other relevant loan documents) shall not merge into any judgment entered or recovered by the Mortgagee against the Mortgagor and

that notwithstanding the recovery or entry of any judgment against the Mortgagor, all of the terms, provisions, covenants, undertakings and agreements of the Mortgagor under the Note (and related loan documents) shall remain in full force and effect and shall be enforceable strictly in accordance with their terms as fully as though no such judgment had been entered or recovered against the Mortgagor.

25. The Mortgagor shall deposit with the Mortgagee, monthly on the 1st day of each month, one-twelfth ($1/12^{\text{th}}$) of the annual charges for insurance premiums and all real estate taxes, assessments, water and other charges which might become a lien upon the Premises, and shall simultaneously herewith deposit with the Mortgagee a sum of money which, together with the monthly installments aforementioned, will be sufficient to make each of the payments aforementioned at least thirty (30) days prior to the date such payments first become payable. Should the said charges not be ascertainable at the time any deposit is required to be made with the Mortgagee, the deposit shall be made on the basis of the charges for the prior year and, upon the charges being fixed for the then current year, the Mortgagor shall deposit any deficiency with the Mortgagee. The funds so deposited with the Mortgagee shall be held by it without interest and, provided the Mortgagor shall not be in default in the performance of its obligations hereunder, shall be applied in payment of the charges aforementioned when and as payable, to the extent the Mortgagee shall have such funds on hand. In the event of any default in the performance of any of the obligations of the Mortgagor, the funds deposited with the Mortgagee as aforementioned, may be applied in payment of the charges for which funds shall have been deposited or to the payment of the Indebtedness or any charges affecting the security of the Mortgagee, as the Mortgagee sees fit, but no such application shall be deemed to have been made by the operation of the law or otherwise until actually made by the Mortgagee as herein provided. The Mortgagor shall furnish the Mortgagee with bills for the charges for which such deposits are required to be made hereunder and/or such other documents necessary for payment of the same, at least fifteen (15) days prior to the date such charges first become payable. Provided the Mortgagor is not in default hereunder and provided the Mortgagor furnishes to the Mortgagee, on demand, proof satisfactory to the Mortgagee that deposits for the aforementioned charges are being made monthly with a prior institutional mortgage, the Mortgagor shall not be required to make deposits for such charges with the Mortgagee. Such option may be exercised only in the event the Mortgagor fails to pay such obligations on a timely basis.

26. In the event payment provided for herein or in the Note shall become overdue for a period in excess of ten (10) days, a late charge of five cents (.05) for each dollar so overdue shall become immediately due to the Mortgagee as liquidation damages for failure to make prompt payment, and the same shall be part of the Indebtedness. Late charges shall be payable with the next installment of principal and/or interest due under the Note or upon demand at the election of the Mortgagee.

27. If any payment due hereunder or under the Note is not paid when due, either at stated or accelerated maturity or pursuant to any of the terms hereof or in the event of any default, then and in such event, at the option of the Mortgagee, the Mortgagor shall pay interest thereon from and after the date on which such payment first becomes due or on the date such other default occurs (and for the duration of such default), computed at a rate of interest (the "**Default Rate**") equal to four (4%) percent above the rate of interest set forth in the Note (but not in excess of the maximum rate of interest allowed by law) hereof and such interest shall be due and payable, on demand, at such rate until the entire amount due is paid to the Mortgagee, whether or not any action shall have been taken or proceeding commenced to recover the same or to foreclose this Mortgage. All unpaid and accrued

interest shall be secured by this Mortgage as part of the Indebtedness. Nothing in this Paragraph or in any other provision of this Mortgage shall constitute an extension of the time or payment of the Indebtedness.

28. The Mortgagor agrees to bear and pay all expenses (including reasonable attorneys' fees for legal services of every kind) of or incidental to the enforcement of any provision hereof, or the enforcement, compromise, or settlement of this Mortgage or the Indebtedness, and for the curing thereof, or defending or asserting the rights and claims of the Mortgagee in respect thereof, by litigation or otherwise and whether or not any action is commenced by the Mortgagee against the Mortgagor or any other party, and all such expenses incurred by the Mortgagee shall be part of the Indebtedness. All rights and remedies of the Mortgagee shall be cumulative and may be exercised singly or concurrently. Notwithstanding anything herein contained to the contrary, the Mortgagor hereby waives trial by jury and further waives the right to interpose any defense, setoff or counterclaim whatsoever to any action brought by the holder of this Mortgage to enforce its rights hereunder.

29. The Mortgagor shall pay any and all taxes, including mortgage tax (now due or hereafter assessed, including any interest owing), charges, excises and levies imposed upon the Mortgage by reason of its indebtedness and/or the Note or this Mortgage, other than income, franchise and doing business taxes, and shall pay all corporate stamp taxes required to be paid on the Note. In the event the Mortgagor fails to make such payment within five (5) days after written notice thereof, the Mortgagee shall have the right to pay the amount due as provided for in Paragraph "11" hereof and the Mortgagor shall reimburse the Mortgagee the amount so advanced with interest from the date that such sum is advanced to and including the date of reimbursement. This obligation shall be a continuing obligation and shall survive payment of the Indebtedness whether by voluntary or involuntary payment, collection by foreclosure or otherwise.

30. All awards and compensation including interest thereon to the Mortgagor as a result of any condemnation or other taking or purchase in lieu thereof, of the Premises or any part thereof, are hereby assigned to and shall be paid to the Mortgagee. The Mortgagor hereby authorizes the Mortgagee to collect and receive such awards and compensation, to give proper receipts and acquittances therefor and to apply the same toward the payment of the Indebtedness, notwithstanding the fact that the Indebtedness may not then be due and payable. In the event that any portion of condemnation awards or compensation shall be used to reduce the Indebtedness, same shall be applied to the then unpaid installments of principal due under the Note in the inverse order of their maturity, such that regular payments under the Note shall be not reduced or altered in any manner. The Mortgagor, upon request by the Mortgagee, shall make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the aforesaid awards and compensation to the Mortgagee free and clear of any liens, charges or encumbrances of any kind or nature whatsoever.

31. The Mortgagee shall have the right to appear in and defend any action or proceeding, in the name of and on behalf of the Mortgagor which the Mortgagee, in its discretion, feels may adversely affect the Premises or this Mortgage and the Mortgagee shall also have the right to institute any action or proceeding which the Mortgagee, in its discretion, feels should be brought to protect its interest in the Premises or its rights hereunder.

32. The Mortgagor covenants and represents that the Premises have not been damaged by fire or other casualty.

33. In the event that the Premises or any part thereof exhibits a structural flaw or defect at any time during the term of this Mortgage, the Mortgagee shall have the right to require, at the Mortgagor's expense, a review of the Premises by an independent professional engineer for the purpose of determining what work, if any, must be done by the Mortgagor to correct such defects or flaws. The Mortgagor agrees, upon notice from the Mortgagee of the work to be done, to promptly correct such defects or flaws at Mortgagor's sole cost and expense.

34. The Mortgagor represents and warrants to the Mortgagee that the Premises are an independent unit which does not rely on any drainage, sewer, access, parking, structural or other facilities located on any property not included in the Premises or on public or utility easements for the (a) fulfillment of any zoning, building code or other requirement of any governmental authority that has jurisdiction over the Premises, (b) structural support or (c) the fulfillment of the requirements of any Lease or other agreement affecting the Premises. The Mortgagor, directly or indirectly, has the right to use all amenities, easements, public or private utilities, parking, access routes or other items necessary or currently used for the operation of the Premises. All public utilities are installed and operating at the Premises and all billed installation and connection charges have been paid in full. The Premises is either (a) contiguous to, or (b) benefits from an irrevocable unsubordinated easement permitting access from the Premises to a physically open, dedicated public street, and has all necessary permits for ingress and egress and is adequately serviced by public water, sewer systems and utilities. No building or other improvement not located on the Premises relies on any part of the Premises to fulfill any zoning requirements, building code or other requirement of any governmental authority that has jurisdiction over the Premises for structural support or to furnish to such building or improvement any essential building systems or utilities.

35. The Mortgagor will, at the cost of the Mortgagor, and without expense to the Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as the Mortgagee shall, from time to time, require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights mortgaged by this Mortgage or intended now or hereafter so to be, or which the Mortgagor may be or may hereafter become bound to convey or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage and, on demand, will execute and deliver and hereby authorizes the Mortgagee to execute in the name of Mortgagor to the extent the Mortgagee may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien of this Mortgage upon the Premises.

36. That, in the event the Premises are presently or in the future identified as lying within a flood hazard area, the Mortgagor shall procure and maintain a policy of flood insurance issued by the United States Government in an amount not less than the Indebtedness secured by this Mortgage, or the maximum amount of such insurance that is available in respect of the Premises, if less, if, and so long as, such insurance is then available in respect of the Premises. Said insurance policy shall name the Mortgagee as an additional insured under the standard mortgagee clause.

37. In the event the Mortgagor is a partnership, limited liability company or limited liability partnership, the Mortgagor shall submit a statement in writing to the Mortgagee on an annual basis and/or on the request of the Mortgagee certified by each of the partners or members of the Mortgagor that shall set forth the name of each partner or member of the Mortgagor (or its successor) and each partners' or members' respective percentage of ownership.

38. The Mortgagor hereby agrees to indemnify Mortgagee and to hold Mortgagee harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by or asserted against Mortgagee for, with respect to or as a direct or indirect result of the failure of the Premises to comply with any applicable laws concerning access to or use of the Premises by handicapped or disabled persons, specifically including, but not by way of limitation, any failure to comply with the requirements of the Americans With Disabilities Act (P.L. 101-336). Mortgagor further agrees that the covenants herein as to matters existing before satisfaction and release of this Mortgage shall survive the payment of the indebtedness to Mortgagee and the satisfaction and release of any mortgage and shall not be affected by Mortgagee's acquisition of any interest in the Premises, whether by foreclosure or otherwise.

39. The Mortgagor hereby warrants to the Mortgagee that the Mortgagor has fully complied with the requirements of 29 CFR 1910.1001 and 29 CFR 1926.1101 (collectively, the "**OSHA Asbestos Statutes**"), as such apply to the Mortgagor including, but not limited to, determining the presence, location and quantity of any asbestos containing materials or presumed asbestos containing materials, keeping all records, posting all warning signs and labels, and making all notifications required thereunder. The Mortgagor shall indemnify and save the Mortgagee harmless from and against any and all injury, loss, claims or damages (including attorneys' fees and disbursements incurred by the Mortgagee in conducting an investigation and preparing for and conducting a defense) by reason of the Mortgagor's failure to comply with the OSHA Asbestos Statutes or asbestos exposure claims arising as a result of asbestos exposure. Additionally, until the payment of the Loan (as defined below) and satisfaction of this Mortgage, the Mortgagor shall deliver, within five (5) days after creation or receipt, true copies of all records required to be kept pursuant to the OSHA Asbestos Statutes which the Mortgagor creates or receives after the date of this Mortgage. The indemnities of Mortgagor hereunder shall survive the payment of the Loan (as defined below) and the satisfaction of this Mortgage. The Mortgagor's failure to comply with the OSHA Asbestos Statutes or any of the requirements hereunder shall constitute a default under this Mortgage.

40. This Mortgage cannot be modified or discharged orally and no executory agreement shall be effective to modify or discharge it in whole or in part, unless it is in writing and signed by the party against whom enforcement of the modification or discharge is sought. Failure by the Mortgagee to exercise any right, remedy or option under this Mortgage or any other agreement between the Mortgagor and the Mortgagee, or delay by the Mortgagee in exercising the same, will not operate as a waiver of any such right, remedy or option or any right remedy or option on any future occasion; no waiver by the Mortgagee will be effective unless it is in writing and then only to the extent specifically stated, and, without limiting the generality of the foregoing, any payment by the Mortgagee for insurance premiums, taxes, assessments, water rates, sewer rentals or other charges affecting the Premises, or payments made by the Mortgagee relating to obligations of the Mortgagor in connection with a lien superior to the lien of this Mortgage, shall not constitute a waiver of the Mortgagor's default in making said payments and shall not obligate the Mortgagee to make any such payments thereafter.

41. The provisions and covenants of this Mortgage shall run with the land, shall be binding upon the Mortgagor and shall inure to the benefit of the Mortgagee, subsequent holders of this Mortgage and their respective successors and assigns. For the purpose of this Mortgage, the term "Mortgagor" shall mean the Mortgagor named herein, any subsequent owner of the Premises, and their respective heirs, executors, legal representatives, successors and assigns. If there is more than one Mortgagor, all their undertakings hereunder shall be deemed joint and several.

42. The validity and enforceability of this Mortgage and all transactions and questions arising hereunder, shall be construed and interpreted according to the laws of the State wherein the Premises is located. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provisions of this Mortgage shall be prohibited by or invalid under applicable law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Mortgage. Nothing in this Mortgage, the Note or in any other agreement between the Mortgagor and the Mortgagee shall require the Mortgagor to pay, or the Mortgagee to accept, interest in an amount which would subject the Mortgagee to penalty under applicable law. In the event that the payment of any interest due hereunder or under the Note or any such other agreement would subject the Mortgagee to penalty under applicable law, then ipso facto the obligation of the Mortgagor to make such payment shall be reduced to the highest rate authorized under applicable law without penalty.

43. Notwithstanding the terms hereof and the closing of the loan (the "**Loan**") contemplated and authorized by the loan commitment letter issued in connection with this Mortgage (the "**Commitment**"), the Mortgagor and the Mortgagee agree that all of the terms and conditions of the Commitment are incorporated herein the same as if such provisions were set forth at length herein and the Mortgagor agrees to comply with the terms and conditions thereof. The intent of this provision is that the terms and conditions of the Commitment shall survive the closing of the Loan and that the Mortgagor shall be obligated to comply with the terms and conditions thereof as long as the Loan remains unpaid and the failure of the Mortgagee to insist upon performance of the terms and conditions of the Commitment shall not constitute a waiver thereof and the Mortgagor's failure to comply with such terms and conditions shall constitute a default hereunder. The Mortgagor agrees to execute and deliver to the Mortgagee such other and further documents and/or instruments (including correction loan documents or instruments) as may be necessary to conform the loan documents or instruments executed to evidence and secure the Loan (the "**Loan Documents**") at the closing of the Loan to the terms and conditions set forth in the Commitment.

44. Upon the occurrence and during the continuance of any Event of Default hereunder, the Mortgagee is hereby authorized at any time and from time to time, without notice to the Mortgagor (any such notice being expressly waived by the Mortgagor and/or any guarantor), to set-off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Mortgagee to or for the credit or the account of the Mortgagor or any guarantor against any and all of the obligations of the Mortgagor or any guarantor now or hereafter existing under the Loan Documents irrespective of whether or not the Mortgagee shall have made any demand under any of the Loan Documents and although such obligation may be unmaturred. The Mortgagee agrees to promptly notify the Mortgagor and any guarantor after such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Mortgagee under this paragraph are in addition to the other

rights and remedies (including, without limitation, other rights of set off) which the Mortgagee may have.

45. The Mortgagor and any guarantor agree that at any time and from time to time, at their expense, they will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, that the Mortgagor may request, in order to perfect and protect any security interest or lien granted or purported to be granted hereby or to enable the Mortgagee to exercise and enforce its rights and remedies hereunder with respect to any of the collateral provided for in the Loan Documents or the Commitment.

46. None of the terms of this Mortgage or any of the Loan Documents executed in conjunction herewith or related hereto shall be deemed to give the Mortgagee the rights or powers to exercise control over the business or affairs of the Mortgagor. The relationship between the Mortgagor and the Mortgagee created by this Mortgage or the Loan Documents is only that of debtor-creditor.

47. To the maximum extent not prohibited by law from time to time in effect, the Mortgagor and any guarantor and each of them hereby knowingly, voluntarily and intentionally (and after Mortgagor has consulted with Mortgagor's own attorney) irrevocably and unconditionally agrees that no claim may be made by Mortgagor or any guarantor against the Mortgagee or any of its directors, officers, employees, attorneys, accountants, agents or insurers or any of its or their successors and assigns, for any special, indirect, consequential or punitive damages in respect of any breach or wrongful conduct (whether the claim is based on contract or tort or duty imposed by law) arising out of, or related to, the transactions contemplated by any of the Commitment, this Mortgage, the Note or any security instrument or any of the Loan Documents, or any act, omission, or event occurring in connection herewith or therewith. In furtherance of the foregoing, Mortgagor and any guarantor hereby waive, release and agree not to sue upon any claim for such damages, whether or not accrued and whether or not known or suspected to exist in its or their favor.

48. The Mortgagee reserves the right but shall not be obligated to enter upon the Premises to correct any deferred maintenance which in its opinion jeopardizes the security for the Indebtedness. The Mortgagee may take such action only after written notice and demand has been made by it or its agents upon the Mortgagor to correct such deficiencies and the Mortgagor shall thereafter fail to correct same. Any sums so expended by the Mortgagee shall be repaid by the Mortgagor to the Mortgagee within thirty (30) days after demand. Such sums until repaid shall be secured by this Mortgage and if not paid as provided for above such sums shall bear interest at the highest rate set forth in the Note or the maximum rate authorized by law.

49. The Mortgagor agrees that it will not incur secondary financing in any form whatsoever which may affect the Premises without prior written approval of the Mortgagee.

50. In order to induce the Mortgagee to make the Loan, the Mortgagor makes the following representations and warranties:

A. Organization and Power: The Mortgagor (i) has its principal place of business located at the address listed on this Mortgage; (ii) has the power to acquire, own, lease and give a lien and security interest on and in the property constituting the Premises and to engage in the transactions contemplated by this Mortgage; (iii) has duly authorized the execution and delivery of each of the

Loan Documents; and (iv) has the full power, authority and legal right to execute and deliver each of the Loan Documents and to perform and observe the terms and provisions of such instruments.

B.Liabilities: The Mortgagor has no liabilities except as contemplated by this Mortgage and fully disclose in the Mortgagor's financial records as presented to the Mortgagee. Such financial records are true and correct. No data was withheld and no material adverse change in the Mortgagor's financial position has occurred which would adversely affect such statements. The Mortgagor's assets are not less than its liabilities, both determined in accordance with generally accepted accounting principles. The Mortgagor is solvent.

C.Litigation and Taxes: There are no actions, suits or proceedings pending or, to the knowledge of the Mortgagor, threatened against or affecting the Mortgagor at law or in equity before any court or administrative officer or agency which might result in any material change in business or financial condition of the Mortgagor. The Mortgagor is not in default (i) in the payment of any taxes levied or assessed against it or any of its assets or (ii) under an applicable statute, rule, order, decree, writ, injunction or regulation of any governmental body (including any court).

D.Compliance with Other Instruments: The Mortgagor is not a party to any contract or agreement or subject to any charter or corporate restriction, to any order, rule, regulation, writ, injunction or decree of any court or governmental authority or to any statute which materially and adversely affects its business, property, assets or financial condition. Neither the execution, delivery or performance of the Loan Documents, nor compliance with the terms and provisions thereof, conflicts or will conflict with or results or will result in a breach of any of the terms, conditions or provisions of the charter documents or by-laws or partnership agreement of the Mortgagor, or of any law, or of any order, writ, injunction or decree of any court or governmental authority, or of any agreement or instrument to which the Mortgagor is a party or by which it is bound, or constitute a default thereunder, or result in the creation or imposition of any lien, charge or encumbrance upon any of its property pursuant to the terms of such agreement or instrument, except the lien and security interest created or permitted by the Loan Documents.

E.Governmental Authorization: No authorization, consent, or approval of any governmental authority is required for the execution and delivery of the Loan Documents. All such authorizations, consents or approvals have been obtained on or prior to the date hereof. All necessary permits and licenses to construct and operate the Mortgagor's business have been obtained.

F.Events of Default: No event has occurred and is continuing which would constitute an Event of Default under the Mortgage, or under any of the other Loan Documents, or would constitute such an Event of Default but for the requirements that notice be given or that any period of time elapse, or both. No Event of Default has occurred and is continuing with respect to any other loan from the Mortgagee to the Mortgagor or from any other lender to the Mortgagor or any person or entity which is (a) affiliated with the Mortgagor or (b) a partner of the Mortgagor, if the Mortgagor is a partnership, or (c) a guarantor of the Indebtedness.

G.Other Representations: All representations which the Mortgagor has made to the Mortgagee in connection with transactions contemplated hereby, whether contained in any of the other Loan Documents, the loan application or written or oral correspondence with the Mortgagee, are true and correct and are not materially misleading.

51. The Mortgagor represents to the Mortgagee that an appropriate inquiry and investigation has been made by the Mortgagor concerning the present and past uses of the Premises and as a result thereof the Mortgagor represents and warrants to the Mortgagee that the Premises have never been used as a depository for hazardous wastes nor does the Premises contain any underground storage tanks, radon, asbestos or PCB's. The Mortgagor further represents that it has no notice of possible noncompliance or of conditions that might require a cleanup of hazardous wastes. The Mortgagor further represents and warrants to the Mortgagee that the Premises are not presently contaminated by hazardous wastes. The Mortgagor further agrees that at no time as long as the Indebtedness remains unpaid and outstanding shall it use the Premises in any way whereby the Premises may become contaminated by hazardous wastes or become a depository for such wastes. The Mortgagor shall furnish the Mortgagee with copies of any communications from or to any regulatory agencies dealing with any such matters. The Mortgagor shall at the reasonable request of the Mortgagee obtain at its own cost and expense for the benefit of the Mortgagee periodic updates of audits and assessments with respect to the matters set forth herein.

52. The Mortgagor agrees that, in the event that the Mortgagee shall, at any time, become financially or otherwise liable to the United States of America, the State of New York or any local government or agency thereof on account of the Mortgagor's use of the Premises or the use of the Premises by any prior owner including, but not limited to, the removal of hazardous wastes, the Mortgagor shall, upon written notice and demand from the Mortgagee, reimburse the Mortgagee for any costs and liability incurred by reason of the foregoing together with interest at the highest rate allowed by law. This shall be a continuing obligation on the part of the Mortgagor and shall survive the payment of the Indebtedness whether by voluntary or involuntary payment, collection by foreclosure or otherwise.

53. The Mortgagor further agrees to indemnify and hold harmless the Mortgagee from any and all claims which are made against the Mortgagee by reason of the foregoing, including reimbursement for independent attorney's fees in the event that the Mortgagee deems it appropriate to retain independent counsel to defend any such claims arising out of the Mortgagor's use of the Premises.

54. In addition to the foregoing, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee separate instruments (herein collectively called the "**Environmental Indemnity**") dated as of the date hereof, wherein and whereby, among other things, the Mortgagor has undertaken certain obligations to the Mortgagee with respect to environmental matters, all as more specifically set forth therein, which said Environmental Indemnity is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length. The Mortgagor agrees that it will duly perform and observe all of the terms and provisions on its part to be performed and observed under the Environmental Indemnity. In the event of any conflict or inconsistency between the terms of this Mortgage and the Environmental Indemnity, the Environmental Indemnity shall prevail.

55. The Mortgagor agrees to promptly notify the Mortgagee, as long as the Indebtedness remains unpaid, of any litigation (pending or threatened) which claims or alleges that any approvals (governmental or otherwise) obtained by the Mortgagor or otherwise affecting the Premises or any improvements thereon or to be construed thereon were improperly issued or are otherwise invalid for

any reason whatsoever. The Mortgagee, in such instance, reserves the right, in its sole discretion, to withhold any advances of monies that may be due the Mortgagor.

56. Notwithstanding anything else contained herein to the contrary, if all or any part to the Premises is located in the State of New York, the maximum amount of the Indebtedness secured by this Mortgage shall be the Mortgage Amount plus all amounts expended by the Mortgagee to maintain the lien of this Mortgage, including, but not limited to, all amounts expended in payment of insurance premiums and real estate taxes.

57. As further security for the Indebtedness hereby secured, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee separate instruments (herein collectively called the "Assignment") dated as of the date hereof, wherein and whereby, among other things, the Mortgagor has assigned to the Mortgagee all of the rents, issues and profits and/or any and all leases and/or the rights of management of the Premises, all as therein more specifically set forth, which said Assignment is hereby incorporated herein by reference as fully and with the same effect as if set forth at length. The Mortgagor agrees that it will duly perform and observe all of the terms and provisions on its part to be performed and observed under the Assignment. The Mortgagor further agrees that it will duly perform and observe all the terms and provisions on lessor's part to be performed and observed under any and all leases of the Premises to the end that no default on the part of the lessor shall exist thereunder. Nothing herein contained shall be deemed to obligate the Mortgagee to perform or discharge any obligation, duty or liability of lessor under any lease of the Premises, and the Mortgagor shall and does hereby indemnify and hold the Mortgagee harmless from any and all liability, loss or damage which the Mortgagee may or might incur under any lease of the Premises or by reason of the Assignment, and any and all such liability, loss or damage incurred by the Mortgagee, together with the costs and expenses, including reasonable attorneys' fees, incurred by the Mortgagee in the defense of any claims or demands therefor (whether successful or not), shall be so much additional Indebtedness and the Mortgagor shall reimburse the Mortgagee therefor on demand, together with interest at the rate specified in the Note from the date of demand to date of payment.

58. The Mortgagor authorizes the Mortgagee, without notice, demand or any reservation of rights and without affecting this Mortgage, from time to time: (i) to accept from any person or entity and hold additional collateral for the payment of the Indebtedness or any part thereof, and to exchange, enforce or refrain from enforcing, or release such collateral or any part thereof; (ii) to accept and hold any indorsement or guaranty of payment of the Indebtedness or any part thereof, and to release or substitute any such obligation of any such indorser or guarantor or any person or entity who has given any collateral as security for the payment of the Indebtedness or any part thereof, or any other person or entity in any way obligated to pay the Indebtedness or any part thereof, and to enforce or refrain from enforcing, or compromising or modify, the terms of any obligation of any such indorser, guarantor, person or entity; (iii) to direct the order or manner of the disposition of any and all collateral and the enforcement of any and all endorsements and guaranties relating to the Indebtedness or any part thereof as the Mortgagee, in its sole discretion, may determine; and (iv) to determine the manner, amount and time of application of payments and credits, if any, to be made on all or any part of any component or components of the Indebtedness (whether principal, interest, costs and expenses, or otherwise).

59. If any default shall be made in the payments of any Indebtedness, this Mortgage shall remain valid, binding and enforceable: (i) without deduction by reason of any setoff, defense or counterclaim

of the Mortgagor or any guarantor; (ii) without requiring protest or notice of default to the Mortgagor, to any guarantor or to any other person; (iii) without demand for payment or proof of such demand; (iv) without requiring Mortgagee to resort first to Mortgagor or to any other guaranty or any collateral which the Mortgagee may hold; (v) without requiring notice of acceptance hereof or assent hereto by the Mortgagee; and (vi) without requiring notice that any Indebtedness has been incurred or of the reliance by the Mortgagee upon this Mortgage; all of which the Mortgagor hereby waives.

60. The enforceability of this Mortgage shall not be affected by: (i) any failure to perfect or continue the perfection of any security interest in or other lien on any collateral securing payment of the Indebtedness; (ii) the invalidity, unenforceability, or loss or change in priority of any such security interest or other lien; (iii) any failure to protect, preserve or insure any such collateral; (iv) any defense arising by reason of the cessation from any cause whatsoever of liability of debtor or any guarantor; (v) any compromise of any obligation of the Mortgagor or any guarantor; or (vi) the invalidity or unenforceability of any of the Indebtedness; all of which the Mortgagor hereby waives.

61. If the Mortgagee shall receive from or on behalf of the Mortgagor any sum less than the full amount then due and payable, the Mortgagee may but shall not be obligated to, accept the same and, if it elects to accept any such payment, it may without waiving any Event of Default: (i) apply such payment on account of the Indebtedness or any amount payable hereunder, or (ii) hold same or any part thereof, without liability to interest in a special account and from time to time apply same or any part thereof as specified above.

62. If the Indebtedness, as evidenced by a single note or other written instrument, shall exceed the Mortgage Amount, or as evidenced by a combination of same that singularly or in part collectively may be less than the Mortgage Amount but combined exceed the Mortgage Amount, the Mortgagee, in any foreclosure hereof, shall have the right to sue and collect the excess in the same action as commenced for the foreclosure hereof, and recover a money judgment for said excess with all the rights attendant thereto, including, without limitation, the issuance of an execution to any Sheriff for collection thereof, and the Mortgagor hereby waives any defense based upon a claim that in doing so, the Mortgagee is splitting its cause of action if it seeks to foreclose this Mortgage for part of the Indebtedness and recover at law for another part.

63. Payment of the Indebtedness may be made, in whole or in part, at any time upon ten (10) days prior written notice provided that the Mortgagor pays to the Mortgagee at the time such prepayment is made (a) accrued interest on the principal balance of the Indebtedness being prepaid through the date of prepayment, (b) such other expenses or any other sums then due and payable pursuant to the Loan Documents.

64. The Mortgagor warrants and represents that the Premises complies in all material respects with all applicable sub-division, zoning and building laws, codes and ordinances of the state and local government, and there is no violation of such laws, codes and ordinances which impact the use of the Premises. The Mortgagor covenants that it will, at all times, during the term of this Mortgage, use or cause the Premises to be used in a manner in compliance with all such laws, codes and ordinances.

65. In the event of a violation of such laws, codes or which impacts the use of the Premises as a whole, or the use of any parcel of real property constituting a portion thereof, the Mortgagor shall:

(i) Notify the Mortgagee of the occurrence of such violation; and

Promptly cure such violation, and in all events complete such cure in accordance with the directives, decrees or orders of any governmental authority having jurisdiction over the same.

66. The Mortgagor shall observe and perform all of the terms, covenants and provisions contained in the Note and in all other mortgages and other instruments or documents evidencing, securing or guaranteeing payment of the Indebtedness, in whole or in part, or otherwise executed and delivered in connection with this Note, this Mortgage or the loan evidenced and secured thereby.

67. The Mortgagee and its agents shall have the right to enter and inspect the Premises at all reasonable times.

68. The Mortgagor shall observe and perform each and every term to be observed or performed by Mortgagor pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Premises.

69. The Mortgagor will not at any time:

(a) Moratoria. Insist upon or plead, or in any manner whatever claim or take or insist upon the benefit of any moratorium law, any exemption from execution or sale of the Premises or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage; nor

(b) Valuation or Appraisal. Insist upon or plead, or in any manner whatever claim or take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof which may be made pursuant to the provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor

(c) Redemption. After any such sale or sales of the Premises claim or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof; nor

(d) Marshaling. Claim or insist upon any right to have the Premises marshaled upon any foreclosure hereunder. The Mortgagor waives and releases any right to have the Premises marshaled.

70. During the continuance of any Event of Default and pending the exercise by the Mortgagee or agents or attorneys of its right to exclude the Mortgagor from all or any of the Premises; the Mortgagor shall pay the fair and reasonable rental value for the use and occupancy of the Premises or any portion thereof which are in its possession for such period and, upon default of any such payment, will vacate and surrender possession of the Premises to the Mortgagee or to a receiver, if any, and in default thereof may be evicted by any summary action or proceeding for the recovery or possession of premises for nonpayment of rent, however designated.

71. The Mortgagor warrants and represents that:

(a) The Mortgagor is not responsible for any action or omission, and does not know of any action or omission by any prior owner, that would cause the Premises to be subject to forfeiture pursuant to any law, rule or regulation (a "Forfeiture").

(b) The Premises has not been acquired with any proceeds from a transaction or an activity that would cause the Premises to be subject to Forfeiture.

The Mortgagor covenants that the Mortgagor will not use, and will not permit any third party to use the Premises or any portion thereof or interest therein for any purpose or activity that would cause a Forfeiture thereof.

72. The Mortgagor will cause any security instrument creating a lien or evidencing the lien of this Mortgage upon the Premises and each instrument of further assurance to be promptly filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully protect the lien of this Mortgage upon, and the interest of the Mortgagee in the Premises. The Mortgagor will pay all filing, registration or recording fees, and all expenses incident to the preparation, execution and acknowledgment of any supplemental mortgage, and security instrument with respect to the Premises and any instrument of further assurance, and all Federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any supplemental mortgage, any security instrument with respect to the Premises or any instruments of further assurance. The Mortgagor shall hold harmless and indemnify the Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the marking and recording of this Mortgage.

73. The Mortgagor and each endorser or guarantor of the Note hereby waives presentment, protest, demand, diligence, notice of dishonor and of non payment, and waives and renounces all of the benefits of any statute of limitations and any moratorium, appraisal, exemption and homestead now provided or which may hereafter be provided by any federal or state statute, including but not limited to exemptions provided by or allowed under the Bankruptcy Code, both as to itself personally and as to all of its or their property, whether real or personal, against the enforcement and collection of the obligations evidenced by the Note and any and all extensions, renewals and modifications hereof.

74. Wherever pursuant to this Mortgage, the Mortgagee exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to the Mortgagee, the decision of the Mortgagee to approve or disapprove or to decide that arrangements or terms are satisfactory or not satisfactory shall be in the sole discretion of the Mortgagee and shall be final and conclusive.

75. The Mortgagor shall not be entitled to any notices of any nature whatsoever from the Mortgagee except with respect to matters for which the Mortgage specifically and expressly provides for the giving of notice by the Mortgagee to the Mortgagor, and the Mortgagor hereby expressly waives the right to receive any notice from the Mortgagee with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by the Mortgagee to the Mortgagor.

76. The Mortgagor acknowledges that it has received a true copy of this Mortgage.

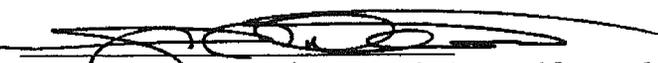
77. Notwithstanding the terms hereof and the closing of this loan, the Borrower and Lender agree that all of the terms of the loan commitment letter dated February 6, 2006 and revised April 17, 2006 are incorporated herein the same as if such provisions were set forth at length herein and the Borrower agrees to comply with the terms thereof. The intent of this provision is that the terms of said commitment letter shall survive the closing of said loan and that the Borrower shall be obligated to comply with the terms thereof as long as the loan remains unpaid. The failure of the Lender to insist upon performance of the terms of said commitment shall not constitute a waiver thereof and the Borrower's failure to comply with such terms shall constitute a default hereunder.

78. The Mortgagor has signed a Building Loan Contract on this date and agrees that the terms and conditions thereof are incorporated herein by reference and secured by this mortgage.

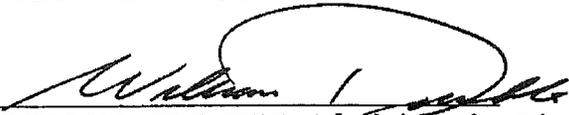
79. The Orange County Industrial Development Agency is executing this document pursuant to a rider attached hereto.

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

RIVER TO RIVER HOLDING LLC


BY: DR. JOHN A. D'AMBROSIO, President of Corporation for Chamber Services, Member

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

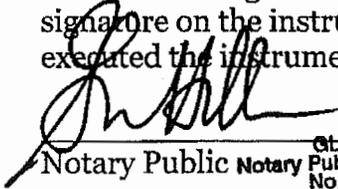

BY: WILLIAM TRIMBLE, Administrative Director

The within described premises are not improved with a structure containing six residential units or less, each dwelling having its own separate cooking facilities.

STATE OF NEW YORK)

COUNTY OF ORANGE)ss:

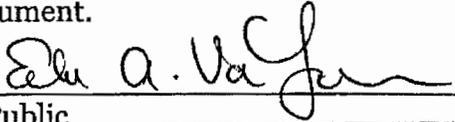
On the 30th day of August, 2006, before me, the undersigned, a notary public in and for said state, personally appeared DR. JOHN A. D'AMBROSIO personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


GLEN L. HELLER
 Notary Public, State Of New York
 No. 02HE4859882
 Qualified in Orange County
 Commission Expires April 21, 20 10

STATE OF NEW YORK)

COUNTY OF ORANGE)ss:

On the 30th day of August, 2006, before me, the undersigned, a notary public in and for said state, personally appeared WILLIAM TRIMBLE personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


 Notary Public

Eenika A. VanLeeuwen
 Notary Public, State of New York
 No. 01VA6113403
 Qualified in Orange County
 Commission expires July 26, 2008

Mortgage Rider/Insert

Orange County Industrial Development Agency Special Obligations; Recording.

Notwithstanding any other term or condition contained in this Mortgage:

(a) This Mortgage is executed by the Orange County Industrial Development Agency (hereinafter the "Agency") solely for the purpose of subjecting its fee ownership or leasehold interest in the Mortgaged Property to the lien of this Mortgage and for no other purpose. All representations, covenants and warranties of the Agency and River to River Holding Corp. (the "Mortgagor") herein are hereby deemed to have been made by the Mortgagor *and not by the Agency*. It is hereby agreed and understood that the Agency has not granted an interest in the Unassigned Rights as defined in Section 6.1 of that certain Leaseback Agreement dated as of August 1, 2006, by and between the Mortgagor and the Agency (the "Leaseback Agreement").

(b) The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State of New York or Orange County, New York, and neither the State of New York nor Orange County, New York shall be liable hereon. All obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Mortgaged Property, and neither the members of the Agency nor any person executing this Mortgage on its behalf shall be liable personally under this Mortgage. No recourse shall be had for the payment of the principal of, or interest on the indebtedness which this Mortgage secures, or for any claim based hereon, or otherwise in respect hereof, or based upon or in respect of this Mortgage, or any mortgage supplemental hereto, against any past, present, or future member, officer, agent, servant, or employee, as such, of the Agency or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officers, agents (except for the Mortgagor), servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Mortgage and the instruments evidencing the indebtedness it secures. Any judgment or decree shall be enforceable against the Agency only to the extent of its interest in the Mortgaged Property and any such judgment shall not be subject to execution on or by a lien on assets of the Agency other than its interest in the Mortgaged Property.

(c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period. If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree may, at its option, place in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses whereupon the Agency shall agree to comply with such request. If the Agency refuses to comply

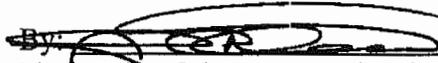
with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, directors, servants, agents or employees shall be subject to potential liability, the party seeking such order or decree may, at its option, (1) agree to protect, defend, indemnify and hold harmless the Agency and its members, officers, directors, servants, agents (other than the Mortgagor) and employees against any liability incurred as a result of its compliance with such demand, and (2) if requested by the Agency, furnish to the Agency reasonably satisfactory security to protect the Agency and its members, officers, directors, servants, agents (other than the Mortgagor) and employees against all liability reasonably expected to be incurred as a result of compliance with such request whereupon the Agency shall agree to comply with such request. The agreement on the part of the Lender shall not be construed in any way so as to effect or impair the lien of this Mortgage or the Lender's right to foreclose hereunder as provided by law or construed in any way so as to limit or restrict any of the rights or remedies of the Lender in any foreclosure proceedings.

(d) The Agency will record or cause this Mortgage to be recorded in the office of the Orange County Clerk and will pay, or cause to be paid, all documentary stamp taxes, if any, which may be imposed by the United States of America or any agency thereof or by the State of New York or other governmental authority upon this Mortgage.

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IN WITNESS WHEREOF, this Rider to the Mortgage has been executed on behalf of Mortgagor and the Agency as of the date first written above.

RIVER TO RIVER HOLDING LLC

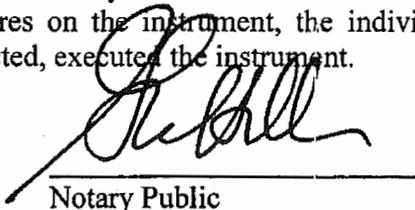
By: 
Name: Dr. John A. D'Ambrosio
Title: President of Corporation for MemberServices, Member

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: 
Name: William Trimble
Title: Administrative Director

State of New York)
County of Orange) ss.:

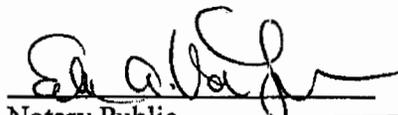
On the 30th day of August in the year 2006, before me, the undersigned, personally appeared Dr. John A. D'Ambrosio, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public
GLEN L. HELLER
Notary Public, State Of New York
No. 02HE4859882
Qualified in Orange County
Commission Expires April 21, 2008

State of New York)
County of Orange) ss.:

On the 29th day of August in the year 2006, before me, the undersigned, personally appeared William Trimble, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public
Benika A. VanLeeuwen
Notary Public, State of New York
No. 01VA6113403
Qualified in Orange County
Commission expires July 26, 2008

Schedule A Description

ALL THAT LAND, situate, in the Town of Montgomery, County of Orange, State of New York described as follows:

BEGINNING at a found concrete monument on the north side of Route 17K and being the southwest corner of lands of ABA Enterprises, Deed Reference Liber 1991, Page 169;

THENCE along the north side of Route 17K, North Seventy-Five Degrees, Fifty-Four Minutes, Forty-Nine Seconds West, One Hundred Sixty-five and Seventy-Eight Hundredths Feet (N 75 degrees-54'-49" W, 165.78')

THENCE through the lands of Nedlaw Development Corporation, Deed Reference Liber 2627, Page 19 the following eight (8) courses:

- 1) North Fourteen Degrees, Fifteen Minutes, Eleven Seconds East, One Hundred Five and Seven hundredths Feet (N 14 degrees-15'-11" E, 105.07');
- 2) Along a curve to the left, concave to the southwest, having a radius of One Hundred Twenty-Five and Zero Hundredths Feet (125.00') for a length of One Hundred Forty-Nine and Forty-Nine Hundredths Feet (149.49');
- 3) North Fifty-Four Degrees, Sixteen Minutes, Twelve Seconds West, Fifty-Nine and Forty-Five Hundredths Feet (N 54 degrees-16'-12" W, 59.45');
- 4) Along a curve to the right, concave to the east, having a radius of Two Hundred Forty and Zero Hundredths Feet (240.00') for a length of Three Hundred Thirty-Nine and Fifty-Seven Hundredths Feet (339.57');
- 5) North Twenty-Six Degrees, Forty-Seven Minutes, Fifty Seconds East, Forty-Three and Forty-Three Hundredths Feet (N 26 degrees-47'-50" E, 43.43')
- 6) Along a curve to the right, concave to the southeast, having a radius of Three Thousand, and Zero Hundredths Feet (3,000.00') for a length of Three Hundred Twenty-Nine and Eighty-Seven Hundredths Feet (329.87');
- 7) North Thirty-Three Degrees, Five minutes, Fifty Seconds East, One Hundred Thirty-Seven and Eighty Hundredths Feet (N 33 degrees-05'-50" E, 137.80');
- 8) South Seventy-One Degrees, One Minutes, Twenty-Six Seconds East, Four Hundred Sixty-Seven and Seven Hundredths Feet (S 71 degrees-01'-26 E, 467.07');

Schedule A Description - continued

Title Number **HN 36836 AMENDED**

Page **2**

THENCE along the lands of Bruderhof Communities in NY, Inc., Deed Reference Liber 5331, Page 229, for a portion of the way and along lands of ABA Enterprises, Deed Reference Liber 1991, Page 169, for the remainder of the way, and generally along the center of a stonewall South Twenty-Three Degrees, One Minute, Fifty-Seven Seconds West, Three Hundred Twenty-Three and One Hundredths Feet (S 23 degrees-01'-57" W, 323.01'), South Twenty-Five Degrees, Fifty-Nine Minutes, Fifty-Seven Seconds West One hundred Fifty and Forty-Four Hundredths Feet (S 25 degrees-59'-57" W, 150.44') and South Twenty-Three Degrees, Twenty-Nine Minutes, Fifty-Seven Seconds West Five Hundred Ten and Zero Hundredths Feet (S 23 degrees-29'-57" W, 510.00') to the point of beginning.

CONTAINING 9.716 acres of land as surveyed by Mercurio-Norton-Tarolli, Land Surveying-Engineering, P.C., 45 Main Street, Pine Bush, NY 12566. Bearings refer to magnetic north of December 1986.

INTENDED to be a portion of the same premises conveyed to Nedlaw Development Corporation and recorded in the Orange County Clerk's Office in Liber 2627 of Deeds, Page 19.

SUBJECT to grants in Liber 1235 at Page 227 and Liber 1483 at page 122.

SUBJECT to covenants, restrictions and easements in Liber 11003 of Deeds at page 144.

TOGETHER with an access and utility easement in Liber 11003 of Deeds at page 144.

HILL-N-DALE ABSTRACTERS, INC.
20 SCOTCHTOWN AVENUE
P.O. BOX 547
GOSHEN, NEW YORK 10924
(845) 294-5110
FAX (845) 294-9581

MORTGAGE RECORDING TAX EXEMPTION AFFIDAVIT

Russell E. Gaenzle, being duly sworn, deposes and says:

1. That he resides in Rochester, New York, and is counsel for the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency").

2. That the Agency is a public benefit corporation duly organized and existing under the laws of the State of New York, having its offices at 255 Main Street, Goshen, New York 10924.

3. That the Agency has entered into a certain lease agreement, dated as of August 1, 2006 with **RIVER TO RIVER HOLDING LLC** (the "Company"), whereby the Agency has received a leasehold interest in the property described in Exhibit A, and the Agency and the Company hereafter executed a leaseback agreement dated as of August 1, 2006 whereby the Agency leases said real property back to the Company.

4. 4. That the Company has entered into certain agreements concerning loans to be made to the Company by Walden Savings Bank (the "Mortgagee"). As collateral for said debt, the Agency and the Company have executed a certain mortgage dated as of August 30, 2006 (the "Mortgage") in favor of the Mortgagee in the principal sum of **TWO MILLION FOUR HUNDRED THOUSAND AND 00/100 DOLLARS (\$2,400,000)**.

5. 5. The Agency has covenanted that it will cause the Mortgage to be recorded in all offices where recordation thereof is necessary.

6. 6. That, in the opinion of your deponent, while the Agency would ordinarily pay the mortgage recording tax with respect to the Mortgage, the recording of the Mortgage is exempt from the payment of the mortgage recording tax by reason of Section 874 of the General Municipal Law.

7. That, the Mortgage will be recorded in the Orange County Clerk's Office.

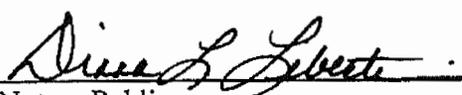
8. That, therefore, I request that the Orange County Clerk record the Mortgage as exempt from mortgage recording taxes.

9. That this affidavit exempts the Mortgage from the Mortgage recording tax.



Russell E. Gaenzle, Esq.

Subscribed and sworn to before me
this 28th day of August, 2006.



Notary Public

DIANA L. LIBERTI
Notary Public, State of New York
Monroe County, Reg # 1870192
Commission Expires September 2, 2006

EXHIBIT A

Land Description

Schedule A Description

ALL THAT LAND, situate, in the Town of Montgomery, County of Orange, State of New York described as follows:

BEGINNING at a found concrete monument on the north side of Route 17K and being the southwest corner of lands of ABA Enterprises, Deed Reference Liber 1991, Page 169;

THENCE along the north side of Route 17K, North Seventy-Five Degrees, Fifty- Four Minutes, Forty-Nine Seconds West, One Hundred Sixty-five and Seventy-Eight Hundredths Feet (N 75 degrees-54'-49" W, 165.78')

THENCE through the lands of Nedlaw Development Corporation, Deed Reference Liber 2627, Page 19 the following eight (8) courses:

1) North Fourteen Degrees, Fifteen Minutes, Eleven Seconds East, One Hundred Five and Seven hundredths Feet (N 14 degrees-15'-11" E, 105.07');

2) Along a curve to the left, concave to the southwest, having a radius of One Hundred Twenty-Five and Zero Hundredths Feet (125.00') for a length of One Hundred Forty-Nine and Forty-Nine Hundredths Feet (149.49');

3) North Fifty-Four Degrees, Sixteen Minutes, Twelve Seconds West, Fifty-Nine and Forty-Five Hundredths Feet (N 54 degrees-16'-12" W, 59.45');

4) Along a curve to the right, concave to the east, having a radius of Two Hundred Forty and Zero Hundredths Feet (240.00') for a length of Three Hundred Thirty-Nine and Fifty-Seven Hundredths Feet (339.57');

5) North Twenty-Six Degrees, Forty-Seven Minutes, Fifty Seconds East, Forty-Three and Forty-Three Hundredths Feet (N 26 degrees-47'-50" E, 43.43')

6) Along a curve to the right, concave to the southeast, having a radius of Three Thousand, and Zero Hundredths Feet (3,000.00') for a length of Three Hundred Twenty-Nine and Eighty-Seven Hundredths Feet (329.87');

7) North Thirty-Three Degrees, Five minutes, Fifty Seconds East, One Hundred Thirty-Seven and Eighty Hundredths Feet (N 33 degrees-05'-50" E, 137.80');

8) South Seventy-One Degrees, One Minutes, Twenty-Six Seconds East, Four Hundred Sixty-Seven and Seven Hundredths Feet (S 71 degrees-01'-26 E, 467.07');

Schedule A Description - continued

Title Number HN 36836 AMENDED

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THENCE along the lands of Bruderhof Communities in NY, Inc., Deed Reference Liber 5331, Page 229, for a portion of the way and along lands of ABA Enterprises, Deed Reference Liber 1991, Page 169, for the remainder of the way, and generally along the center of a stonewall South Twenty-Three Degrees, One Minute, Fifty-Seven Seconds West, Three Hundred Twenty-Three and One Hundredths Feet (S 23 degrees-01'-57" W, 323.01'), South Twenty-Five Degrees, Fifty-Nine Minutes, Fifty-Seven Seconds West One hundred Fifty and Forty-Four Hundredths Feet (S 25 degrees-59'-57" W, 150.44') and South Twenty-Three Degrees, Twenty-Nine Minutes, Fifty-Seven Seconds West Five Hundred Ten and Zero Hundredths Feet (S 23 degrees-29'-57" W, 510.00') to the point of beginning.

CONTAINING 9.716 acres of land as surveyed by Mercurio-Norton-Tarolli, Land Surveying-Engineering, P.C., 45 Main Street, Pine Bush, NY 12566. Bearings refer to magnetic north of December 1986.

INTENDED to be a portion of the same premises conveyed to Nedlaw Development Corporation and recorded in the Orange County Clerk's Office in Liber 2627 of Deeds, Page 19.

SUBJECT to grants in Liber 1235 at Page 227 and Liber 1483 at page 122.

SUBJECT to covenants, restrictions and easements in Liber 11003 of Deeds at page 144.

TOGETHER with an access and utility easement in Liber 11003 of Deeds at page 144.