



# Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

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**DATE:** September 15, 1999  
**TO:** Division of Records and Reporting  
**FROM:** Patricia Brady, Division of Water and Wastewater *pb BSM gw bl*  
**RE:** Docket No. 990194-WS, Application for transfer of Certificates Nos. 560-W and 488-S in Lake County from Lake Yale Corporation d/b/a Lake Yale Utility Company to Lake Yale Treatment Associates, Inc.

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Attached is a letter dated September 10, 1999 from Lake Yale Treatment Associates, Inc. , to Ms. Pat Brady, Commission staff. Attached to the letter is Lake Yale Treatment Associates, Inc.'s response to John Williams' September 3, 1999 notification of deficiencies.

Attachment

cc: Division of Legal Services (Crossman, Crosby)

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- MAS \_\_\_\_\_
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

*Exhibits 1-27 attached*

DOCUMENT NUMBER-DATE

11088 SEP 15 99

FPSC-RECORDS/REPORTING

September 10, 1999

Florida Public Service Commission  
Division of Water and Wastewater  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
Attention: Pat Brady

RE: Docket No. 990194-WS, Application for transfer of Certificates Nos. 560-W and 488-S in Lake County from Lake Yale Corporation d/b/a Lake Yale Utility Company to Lake Yale Treatment Associates, Inc.

Dear Ms. Brady:

Enclosed are the corrections to the deficiencies stated in the letter dated September 3, 1999, received from John D. Williams.

We have enclosed one complete package of these corrections. If, in fact you need more than the one copy of this package, please contact us before the deadline date of September 16, 1999.

Also, if you find that any of the deficiencies are not corrected, please notify us prior to the deadline.

We thank you kindly for your assistance.

Sincerely,

Lake Yale Treatment Associates, Inc.  
LYTA, Inc./mm

**RECEIVED**

SEP 13 1999

Florida Public Service Commission  
Division of Water and Wastewater

RECEIVED  
FLORIDA PUBLIC  
SERVICE COMMISSION  
99 SEP 13 AM 9:24  
MAIL ROOM

September 10, 1999

Answers to Letter dated September 3, 1999

From John D. Williams

Chief, Bureau of Policy Development and Industry Structure (copy enclosed)

Re: Docket No. 990194-WS, Application for transfer of Certificates Nos. 560-W and 488-S in Lake County  
From Lake Yale Coporation d/b// Lake Yale Utility Company to Lake Yale Treatment Associates, Inc.

- Item #1 Newspaper has sent confirmation see attached Exhibit 1.
- Item #2 The ownership is Lake Yale Treatment Associates, Inc. The sole shareholder and director is Peter Beer . See Application marked Exhibit 2a attached.
- Item #3 No other utilities are owned by buyer.
- Item #4 See copy of closing documents enclosed market Exhibit 4.
- Item #4a See copy of Deeds enclosed market Exhibit 4a.
- Item #4b See copy of closing documents market Exhibit 4  
Section 3 Assignments of Leases and Rents
- Item #5 See copy of closing document market Exhibit 4
- Item #6 The Commission was told that we just did not know we had to comply with Florida statute. We purchased a mobile home park, the utility was part of the package. Not aware of FL statute  
RE: Public Service Commission
- Item #7 See copy of closing documents market Exhibit 4  
Section 1 Promissory Note and Section 2 Mortgage and Security Agreement
- Item #8 See copy of closing documents market Exhibit 4  
Section 1 Promissory Note and Section 4 Guaranty
- Item #9 No acquisition adjustment is requested.  
I understand this to be a rate issue not a tax issue therefore, no adj s/b requested it may just Complicate this matter further.
- Item #10 Buyer accepts findings of audit as it relates to Exception 1. Buyer has conformed books and records to be in compliance with NARUC's Uniform System of Accounts.  
Buyer accepts findings of audit as it relates to Exception 2.  
Buyer accepts findings of audit as it relates to Exception 3.
- Item #11 Technical ability: Buyer offers limited utility experience other than those directly associated with the operations of other manufactured mobile home communities (non-public). As a result, the utility relies upon Plan Technicians Laboratory to perform all day-to-day operations. Plant Technicians is located at 101 Satellite Court, Leesburg, Florida 34748, phone 352-787-2944. They hold responsibility for the operations of both the water and wastewater facilities and are licensed by the Florida Department of Environmental Protection. The licensee for the organization is Frank Gratson, DEP # DW-8514, WW-7116.  
Financial ability: See Balance Sheets attached marked Exhibit 11.
- Item #12 The Utility was in compliance with FDEP at the time of purchase.
- Item #13 This item is being corrected.

**RECEIVED**

**SEP 13 1999**

Florida Public Service Commission  
Division of Water and Wastewater

Sincerely,



Peter Beer, President  
Lake Yale Treatment Associates, Inc.

# The Daily Commercial

MAIL PAYMENT TO: P.O. BOX 490007, LEESBURG, FL 34749-0007

77

AD ID NUMBER		START		END
01501713		09/02/99		09/02/99
DESCRIPTION	LINES	TIMES	AMOUNT DUE	
LEGAL NOTICE	61	1	47.75	
NAME		CLASS	REFERENCE	
Sandpiper Mobile		0003	Same	

THANK YOU FOR ADVERTISING.  
TO PLACE AN AD PLEASE CALL  
787-0902 (LAKE) 748-1955 (SUMTER)

TO ENSURE PROPER CREDIT TO YOUR ACCOUNT, PLEASE DETACH BOTTOM PORTION AND RETURN WITH YOUR PAYMENT.

AD ID NUMBER	AMOUNT DUE	STOP DATE	PHONE NUMBER
01501713	47.75	09/02/99	(352)483-1377

RETURN to P.O. BOX 490007, LEESBURG, FL 34749-0007

DUE UPON RECEIPT

*Note: Affidavit  
mailed to  
Tallahassee*

Norma Davis *ATTN: MICHAEL*  
Sandpiper Mobile Manor  
11643 Martel Court  
LEESBURG, FL 34788

RETURN THIS PORTION

*Exhibit 1*

Copy

# APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA:

1. Lake Yale Treatment Associates, Inc.  
(Name of corporation: must include the word "INCORPORATED", "COMPANY", "CORPORATION" or words or abbreviations of like import in language as will clearly indicate that it is a corporation instead of a natural person or partnership if not so contained in the name at present.)

2. Michigan 3. \_\_\_\_\_  
(State or country under the law of which it is incorporated) (FEI number, if applicable)

4. October 13, 1998 5. Perpetual  
(Date of Incorporation) (Duration: Year corp. will cease to exist or "perpetual")

6. Upon qualification  
(Date first transacted business in Florida. (See sections 607.1501, 607.1502, and 817.155, F.S.)

7. 18700 W 10 Mile  
Southfield, MI 48075  
(Current mailing address)

8. All lawful purposes as set forth in the corporate Bylaws.  
(Purpose(s) of corporation authorized in home state or country to be carried out in the state of Florida)

9. Name and street address of Florida registered agent:

Name: David D. Eastman  
Office Address: 101 South Monroe Street  
Tallahassee, Florida, 32301  
(Zip Code)

10. Registered agent's acceptance:

*Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.*

\_\_\_\_\_  
(Registered agent's signature)

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

*Exhibit 2a*

12. Names and addresses of officers and/or directors: (Street address ONLY- P. O. Box NOT acceptable)

A. DIRECTORS (Street address only- P. O. Box NOT acceptable)

Chairman: Peter Beer, Sole Director

Address: 18700 W. 10 Mile

Southfield, MI 48075

Vice Chairman: \_\_\_\_\_

Address: \_\_\_\_\_

Director: \_\_\_\_\_

Address: \_\_\_\_\_

Director: \_\_\_\_\_

Address: \_\_\_\_\_

B. OFFICERS (Street address only- P. O. Box NOT acceptable)

President: Peter Beer

Address: 18700 W. 10 Mile

Southfield, MI 48075

Vice President: \_\_\_\_\_

Address: \_\_\_\_\_

Secretary: Peter Beer

Address: 18700 W. 10 Mile

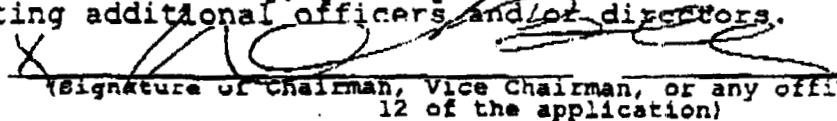
Southfield, MI 48075

Treasurer: Peter Beer

Address: 18700 W. 10 Mile

Southfield, MI 48075

NOTE: If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13.   
(Signature of Chairman, Vice Chairman, or any officer listed in number 12 of the application)

14. Peter Beer, Sole Director and President  
(Typed or printed name and capacity of person signing application)

*Exhibit 2a Pg. 2*

PREPARED BY:  
RK CAPALDI, ESP.  
10 WEST LONG LAKE RD  
STE-135  
BLOOMFIELD, MI  
48034

WARRANTY DEED **98 81581**

REC. 1.50 RECEIVED FOR  
EXCISE TAXES  
MORT. DOC. \_\_\_\_\_  
DEED DOC. 14,000.00  
INT. \_\_\_\_\_  
BY LEN D.C.  
JAMES C. WATKINS, CLERK LAKE CO. FL

Return to: Peter Beer  
Name:  
Address: 18700 W. 10 Mile, Southfield, MI 48075  
This Instrument Prepared by: Mark Capaldi  
Address: 10 W. Long Lake, Suite 135, Bloomfield Hills, MI 48304  
Parcel I.D. Number(s):  
Grantee(s) S.S.#(s):

O.P. BOOK **1655** PAGE **892**

**This Warranty Deed, Made the 15th day of October A.D., 1998**  
by **Lake Yale Corporation**, an Indiana Corporation  
hereinafter called the grantor, to

**Sandpiper Mobile Manor Associates, L.L.C.** a Michigan limited liability company  
whose post office address is **18700 W. 10 Mile, Southfield, MI 48075**  
hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

**Witnesseth:** That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in **Lake County, Florida, viz.:**

(see attachment for complete legal description)

**And** the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever, except taxes for the year 1998 and subsequent

**In Witness Whereof**, the grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

x Mia N. Groode  
Signature

Print: Mia N Groode

x Wendy D. Alford  
Signature

Print: Wendy D. Alford

Leroy New  
Signature

Print: Leroy New, President  
11643 Martel Court  
Address: Esburg, FL 34788-8103

Signature \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_

STATE OF Indiana }  
COUNTY OF Hamilton } ss:

The foregoing instrument was acknowledged before me this 14th day of Oct 1998  
By Leroy New, President who is/are personally known to me or who has/have produced identification and who did so take oath.

x Joyce Ray  
Signature

Print: Joyce RAY

Printed Signature  
NOTARY PUBLIC  
My Commission Expires: 2-26-08

RECORDED  
INDEXED  
LAKELAND, FL  
OCT 27 4 28 PM '98  
CLERK OF COUNTY COURT

RETURN TO: OR 984760  
COMMONWEALTH LAND  
TITLE INSURANCE COMPANY  
2233 LEE ROAD, SUITE 204  
WINTER PARK, FL 32789

Exhibit 4A

Copy

WARRANTY DEED 98 81588

REC. RECEIVED FOR  
TF 1.30 EXCISE TAXES  
MORT. DOC  
DEED DOC 7,000.00  
INT  
JAMES C. WATKINS, CLERK LAKE CO. FL  
BY WCA D.C.

Name: Peter Beer  
Address: 18700 W. 10 Mile, Southfield, MI 48075  
This instrument Prepared by: Mark Capaldi  
Address: 10 W. Long Lake, Suite 135, Bloomfield Hills, MI 483  
Parcel I.D. Number(s):  
Grantee(s) S.S.#(s):

O.P. BOOK 1655 PAGE 985

PREPARED BY:  
MARK CAPALDI, ESQ  
10 WEST LONG LAKE RD  
STE-135  
BLOOMFIELD, MI  
48034

This Warranty Deed, Made the 15th day of October A.D., 1998  
by Lake Yale Corporation, an Indiana Corporation  
hereinafter called the grantor, to  
Eustia Associates, L.L.C. A Michigan limited liability company  
whose post office address is 18700 W. 10 Mile, Southfield, MI 48075  
hereinafter called the grantee:

(Whenever used herein the words "grantor" and "Grantee" include all the parties to this instrument and their heirs, legal representatives and assigns of both, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lake County, Florida, viz.:

(see attachment for complete legal description)  
And the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever, except taxes for the year and subsequent

In Witness Whereof, the grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

x Mia N. Goode  
Signature  
Print: Mia N. Goode

Lake Yale Corporation  
Leroy New  
Signature  
Printed: Leroy New, President  
1643 Martel Court  
Leesburg, FL 34788-8103  
Address

x Mindy G. [unclear]  
Signature  
Print: Mindy G. [unclear]

Signature  
Printed  
Address

STATE OF Indiana )  
COUNTY OF Hamilton ) ss:

The foregoing instrument was acknowledged before me this 14th day of Oct 19 98  
By Leroy New, President who is/are personally known to me or who has/have produced \_\_\_\_\_ as identification and who did not take any cash

Joyce Ray  
Signature  
Print: Joyce Ray  
Printed Signature  
NOTARY PUBLIC  
My Commission Expires: 2-26-08

RECORDED  
LAKE COUNTY, FL  
OCT 27 4 32 PM '98

RETURN TO: 08984759  
COMMONWEALTH LAND  
TITLE INSURANCE COMPANY  
2233 LEE ROAD, SUITE 204  
WINTER PARK, FL 32789

EXHIBIT 4A



LAKE YALE TREATMENT ASSOC  
BALANCE SHEET  
AS OF DECEMBER 31, 1998

A S S E T S

CURRENT ASSETS		
CIB-OLD KENT	6,969.75	
	-----	
TOTAL CASH		6,969.75
LOAN REC INTER-COMPANY TRANSACTIONS	-198,932.00	
PREPAID INSURANCE	528.57	
	-----	
TOTAL NON-CASH		-198,403.43
		-----
TOTAL CURRENT ASSETS		-191,433.68
 FIXED ASSETS		
LAND	50,000.00	
LAND IMP.	72,413.00	
ACCUM DEPRECIATION	-5,375.01	
EQUIPMENT	75,000.00	
	-----	
NET FIXED ASSETS		192,037.99
		-----
TOTAL OTHER ASSETS		0.00
		-----
TOTAL ASSETS		604.31
		=====

*Exhibit 11*

LAKE YALE TREATMENT ASSOC  
BALANCE SHEET  
AS OF DECEMBER 31, 1998

L I A B I L I T I E S

CURRENT LIABILITIES		
ACCOUNTS PAYABLE	416.66	
	-----	
TOTAL		416.66
	-----	
TOTAL ACCRUED LIABILITIES		0.00
		-----
TOTAL CURRENT LIABILITIES		416.66
		-----
OTHER LIABILITIES		
	-----	
TOTAL OTHER LIABILITIES		0.00
		-----
TOTAL LIABILITIES		416.66
		-----
PARTNERS' EQUITY		
NET INCOME OR LOSS	187.65	
	-----	
TOTAL PARTNERS' EQUITY		187.65
		-----
TOTAL LIABILITIES & PARTNERS' EQUITY		604.31
		=====

*Exhibit 11*

SANDPIPER MOBILE MANOR  
BALANCE SHEET  
AS OF DECEMBER 31, 1998

A S S E T S

CURRENT ASSETS		
CIB NATIONALBANK	-3,777.56	
CIB-OLD KENT	5,166.09	
	-----	
TOTAL CASH		1,388.53
ACCOUNTS RECEIVABLE	110.79	
LOAN REC	300,000.00	
LOAN REC INTER-COMPANY TRANSACTIONS	-413,180.59	
PREPAID INSURANCE	10,082.60	
PREPAID TAXES	951.03	
	-----	
TOTAL NON-CASH		-102,036.17
		-----
TOTAL CURRENT ASSETS		-100,647.64
FIXED ASSETS		
LAND	1,000,000.00	
LAND IMP.	1,274,619.00	
ACCUM DEPRECIATION	-32,185.99	
BUILDING	60,000.00	
	-----	
NET FIXED ASSETS		2,302,433.01
PREPAID MTGE COSTS	54,476.96	
ACCUM AMORTIZATION	-1,815.90	
	-----	
TOTAL OTHER ASSETS		52,661.06
		-----
TOTAL ASSETS		2,254,446.43
		=====

*Exhibit 11*

SANDPIPER MOBILE MANOR  
BALANCE SHEET  
AS OF DECEMBER 31, 1998

L I A B I L I T I E S

CURRENT LIABILITIES		
ACCOUNTS PAYABLE	30,086.73	
FIRE TAX	981.12	
FIT W/H & FICA W/H & ACC	4,123.72	
	-----	
TOTAL		35,191.57
ACC FMCE	304.78	
ACC FUTA	121.90	
	-----	
TOTAL ACCRUED LIABILITIES		426.68
		-----
TOTAL CURRENT LIABILITIES		35,618.25
OTHER LIABILITIES		
LOAN PAYABLE - T. BARNETT	150,000.00	
L/P BURGESS	150,000.00	
ACC TAXES	423.99	
MORTGAGE PRINCIPLE PAYABLE	1,998,515.71	
	-----	
TOTAL OTHER LIABILITIES		2,298,939.70
		-----
TOTAL LIABILITIES		2,334,557.95
PARTNERS' EQUITY		
NET INCOME OR LOSS	-80,111.52	
	-----	
TOTAL PARTNERS' EQUITY		-80,111.52
		-----
TOTAL LIABILITIES & PARTNERS' EQUITY		2,254,446.43
		=====

*Exhibit 11*

copy  
October 23, 1998

CLOSING STATEMENT

Seller: Lake Yale Corporation  
11643 Martel Court  
Leesburg, Florida 34788-8103

Buyer: The Bloch Organization and  
Sandpiper Mobile Manor Associates L.L.C.  
(for Sandpiper Mobile Manor)  
Eustia Associates, L.L.C.  
(for Lake Yale Estates)  
~~Lake Yale Treatment Associates, Inc.~~  
(for water & sewer plant)  
18700 W. 10 Mile Road  
Southfield, Michigan 48075

PURCHASE PRICE: \$2,825,000.00  
LESS LOANS: -\$1,038,350  
-\$ 108,816  

---

\$1,677,833

DEBITS: Property Tax: \$6,025  
(Add) Permits: 7,451  
Water: 1,016  
Fire tax: 152  

---

+ \$14,644

CREDITS: Water '96: \$ 4,210  
(Deduct) Rent 7,327  
Utility Co: 2,346  
Water '98: 1,081  
Marina: 1,563  
Commonwealth Title: 10,550  
Stamps on Deed: 14,000  

---

- \$41,077

NET TO SELLER: \$1,651,400 \* \*

Lake Yale Corp. (Seller): THE BLOCH ORGANIZATION

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

copy

98 81586

REC 5.00

TF 1.00

BILL OF SALE

O.P. BOOK 1655 PAGE 982

GRANTOR: Lake Yale Corporation  
11643 Martel Court, Leesburg, FL 34788-8103

for and in consideration of the sum of One (\$1.00) Dollar, the receipt and sufficiency of which are acknowledged, has sold and grants to:

GRANTEE: Eustia Associates, L.L.C.  
18700 W. 10 Mile, Southfield, MI 48075

and to Grantee's successors, administrators, and assigns, all right, title, and interest in and to the Lake Yale Estates mobile home development, located in Lake County, Florida. The aforementioned conveyance includes, but is not limited to, all existing contract rights, permits, and governmental approvals, and any and all equipment and other personal property located at Lake Yale Estates mobile home development.

Grantor covenants and agrees to and with Grantee to WARRANT AND DEFEND the sale of the foregoing property, goods, and chattels against all persons.

Grantor has executed this 15th day of October, 1998.

Grantor:  
Lake Yale Corporation

*Leroy New*  
Leroy New, President

CLERK OF COUNTY  
*[Signature]*

OCT 27 4 32 PM '98

RECORDED  
RECORDED  
LAKE COUNTY FL

INDIANA  
STATE OF ~~FLORIDA~~ )  
                                  )SS.  
COUNTY OF HAMILTON

On October 15, 1998, before me, a notary public, personally appeared Leroy New, President of Lake Yale Corporation, who executed this Bill of Sale on behalf of the company.

*Joyce Ray*  
Notary Public, Hamilton County  
My commission expires 2-26-99.

RETURN TO: 08984759 75  
COMMONWEALTH AND  
TITLE INSURANCE COMPANY  
2233 LEE ROAD, SUITE 204  
WINTER PARK, FL 32789

SONNENSCHN NATH & ROSENTHAL

8000 SEARS TOWER  
CHICAGO, ILLINOIS 60606-6404

(312) 876-8000  
FACSIMILE  
(312) 876-7934

**David I. Schrodt**  
(312) 876-7571  
dus@sonnenschein.com

November 11, 1998

VIA FEDERAL EXPRESS

Linda Bloch  
Miro Weiner & Kramer  
500 North Woodward Avenue, Suite 100  
Bloomfield Hills, Michigan 48303-0908

Re: Mortgage Loan by TransAtlantic Capital Company to Sandpiper Mobile  
Manor Associates

Dear Linda:

Enclosed is the closing binder for the above-referenced transaction. Thank you for your help in closing this matter.

Very truly yours,

SONNENSCHN NATH & ROSENTHAL

David I. Schrodt

DUS/acp  
1370153  
Enclosure

EXH 4 - Summary

**INDEX of CLOSING DOCUMENTS for the**  
**\$2,000,000 LOAN from**  
**TRANSATLANTIC CAPITAL COMPANY, L.L.C. ("Lender")**

to

**SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C. ("Borrower")**

**Closing Date: October 26, 1998**

All documents are dated as of October 26, 1998 unless otherwise specified

---

**LOAN DOCUMENTS**

1. PROMISSORY NOTE made by Borrower payable to Lender in the amount of \$2,000,000;
2. MORTGAGE AND SECURITY AGREEMENT securing a loan in the principal amount of \$2,000,000 from Borrower in favor of Lender, and recorded with the Lake County, Florida Register of Deeds Office on \_\_\_\_\_, 1998 as Document No. \_\_\_\_\_ at Book \_\_\_\_\_, page \_\_\_\_\_;
3. ASSIGNMENT OF LEASES AND RENTS from Borrower in favor of Lender, and recorded with the Lake County, Florida Register of Deeds Office on \_\_\_\_\_, 1998 as Document No. \_\_\_\_\_ at Book \_\_\_\_\_, page \_\_\_\_\_;
4. GUARANTY from Peter Beer, Benedetto Sorrentino and Thomas Barrett (collectively, "Guarantor") for the benefit of Lender;
5. ENVIRONMENTAL INDEMNITY AGREEMENT from Borrower and Guarantor for the benefit of Lender;
6. MANAGER'S CONSENT AND SUBORDINATION OF MANAGEMENT AGREEMENT;
7. BORROWER'S CLOSING CERTIFICATE;
8. UCC-1 FINANCING STATEMENT, executed by Borrower, as Debtor, to Lender as Secured Party recorded with the Lake County, Florida Register of Deeds on \_\_\_\_\_, 1998 as Document No. \_\_\_\_\_ at Book \_\_\_\_\_, pages \_\_\_\_\_;
9. UCC-1 FINANCING STATEMENT executed by Borrower, as Debtor, to Lender as Secured Party recorded with the Florida Secretary of State on \_\_\_\_\_, 1998 as Document No. \_\_\_\_\_;



10. CERTIFICATION REGARDING PROPERTY DOCUMENTS AND FINANCIAL INFORMATION;
11. POST-CLOSING SIDE LETTER;

**TITLE, SURVEY AND CLOSING DOCUMENTS**

12. PRO FORMA POLICY WITH ENDORSEMENTS issued by Commonwealth Land Title Insurance Company ("Title Company") in the amount of \$2,000,000;
13. ALTA/ACSM SURVEY dated October 6, 1998, prepared by George W. Farmer, Jr.;
14. ESCROW AGREEMENT together with RECEIPT AND ACKNOWLEDGEMENT from Title Company;
15. DISBURSEMENT AUTHORIZATION together with WIRE INSTRUCTIONS and CLOSING STATEMENT;

**ORGANIZATIONAL DOCUMENTS**

16. BORROWER'S OPERATING AGREEMENT certified by Borrower's Managing Member;
17. CONSENT ACTION OF THE MEMBERS OF BORROWER regarding the Loan;
18. ARTICLES OF ORGANIZATION certified by the Michigan Secretary of State;
19. CERTIFICATE OF ORGANIZATION from the Michigan Secretary of State;
20. AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA certified by the Florida Secretary of State;

**LEGAL OPINIONS**

21. OPINION by Mark Capaldi, P.C. with respect to due execution and other matters;
22. OPINION by Miro Weiner & Kramer with respect to due execution and other matters;

**ASSIGNMENT DOCUMENTS EXECUTED BY LENDER (IN BLANK)**

23. ALLONGE;
24. ASSIGNMENT OF MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS;
25. ASSIGNMENT AND CONVEYANCE AGREEMENT;
26. UCC-3 ASSIGNMENT by Lender, as Secured Party to be recorded with the Lake County, Florida Register of Deeds Office; and

27. UCC-3 ASSIGNMENT by Lender, as Secured Party to be recorded with the Florida Secretary of State.

1

## PROMISSORY NOTE

\$2,000,000.00

October 26, 1998

FOR VALUE RECEIVED, the undersigned, SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., a Michigan limited liability company (the "Maker"), promises to pay, in installments as hereinafter provided, to TRANSATLANTIC CAPITAL COMPANY, L.L.C., a Delaware limited liability company, and its successors and/or assigns (the "Payee"), in lawful money of the United States of America, at 31 West 52nd Street, 10th Floor, New York, New York 10019 or at such other place as Payee may direct, the principal sum of Two Million and No/100 Dollars (\$2,000,000.00), together with interest thereon from the date hereof at the rate (the "Note Rate") of (i) initially, 7.50% per annum (the "Initial Interest Rate") and (ii) thereafter, if applicable, the Revised Interest Rate (as such term is defined in the Mortgage hereinafter referred to) at the time, and under the circumstances set forth in the Mortgage, in each case computed on the basis of a 360-day year and accrued and paid for the actual number of days elapsed in any period for which interest is payable.

Section 1. (a) Payments of principal and interest shall be paid in installments as follows:

- (i) On the date hereof, a payment of interest only in the amount of \$2,500.02 with respect to the period commencing on the date hereof and ending on, and including, the last day of the month in which this Note is executed (the "Stub Interest");
- (ii) A constant payment of \$13,984.29 (the "Monthly Payment") on the first day of December, 1998 and on the first day of each calendar month thereafter up to and including the first day of October, 2028 (each, a "Payment Date"); and
- (iii) The balance of said principal sum and all accrued but unpaid interest thereon shall be due and payable on the first day of November, 2028 (the "Maturity Date").

(b) Payments in federal funds immediately available at the place designated for payment received by Payee prior to 2:00 p.m. local time on a day on which Payee is open for business at said place of payment shall be credited prior to close of business. While other payments, at the option of Payee, may not be credited until immediately available to Payee in federal funds at the place designated for payment prior to 2:00 p.m. local time on a day on which Payee is open for business.

(c) In the event that any payment is not received by Payee on the date when due (subject to any applicable grace period), then, in addition to any default interest payments due hereunder, Maker shall also pay to Payee a late charge in an amount equal to five percent (5%) of the amount of such overdue payment.

Section 2. This Note is secured by, among other things, (a) a mortgage (the "Mortgage") from Maker, as mortgagor, to Payee, as mortgagee, covering certain real property, consisting of land and the buildings and improvements thereon located in the County of Lake, State of Florida (the "Mortgaged Property") and (b) an assignment of leases and rents (the "Assignment"), from Maker to Payee. Reference is made to such documents for a description of the nature and extent of the security afforded thereby, the rights of the holder hereof in respect of such security and the terms and conditions upon which this Note is secured. The holder of this Note is entitled to the benefits of the Mortgage and the Assignment and may enforce the agreements of Maker contained therein and exercise the remedies provided therein or otherwise in respect thereof, all in accordance with the terms thereof.

Section 3. The principal amount of this Note is subject to prepayment, in whole but not in part, without premium, at the option of Maker, only on the Optional Prepayment Date (as defined in the Mortgage); the foregoing being the sole cash prepayment option exercisable by Maker. After the Optional Prepayment Date, the principal amount of this Note is subject to prepayment in whole or in part, without premium, at the option of the Maker, as provided in the Mortgage. The principal amount of this Note is also subject to prepayment, in part, at the option of Payee, upon the occurrence of a condemnation or casualty affecting the Mortgaged Property, all as provided in the Mortgage. This Note is also subject to a right of defeasance, at the option of Maker, at the times and under the conditions set forth in the Mortgage.

Section 4. (a) If an Event of Default, as defined in the Mortgage, shall occur, the unpaid balance of the principal of this Note may be declared due and payable in the manner and with the effect provided in the Mortgage.

(b) Maker hereby waives presentment for payment, demand, protest, notice of protest or other notice of dishonor. To the extent permitted by law, Maker hereby waives and releases all errors, defects and imperfections in any proceedings instituted by Payee under the terms of this Note or of the Mortgage, as well as all benefit that might accrue to Maker by virtue of any present or future laws exempting the Mortgaged Property, or any part of the proceeds arising from any sale of any such property, from attachment, levy or sale under execution, or providing for any stay of execution, exemption from civil process or extension of time for payment.

(c) The remedies of Payee as provided herein or in the Mortgage shall be cumulative and concurrent and may be pursued successively or concurrently against Maker and/or the collateral securing this Note. No failure on the part of Payee in exercising any right or remedy hereunder shall operate as waiver or release thereof, nor shall any single or partial exercise of any such right or remedy preclude any other further exercise thereof or the exercise of any other right or remedy hereunder.

(d) No modification or waiver of any provision of this Note shall be effective unless the same shall be in writing signed by the party against which enforcement of such modification or waiver is sought.

Section 5. So long as any Event of Default exists hereunder, regardless of whether or not there has been an acceleration of the indebtedness evidenced hereby, and at all times after maturity of the indebtedness evidenced hereby (whether by acceleration or otherwise), interest shall accrue on the outstanding principal balance of this Note, from the date of the relevant Event of Default (without regard to any notice or grace period), at a rate per annum equal to the lesser of (i) five percent (5%) in excess of the Note Rate and (ii) the maximum rate of interest, if any, which may be collected from Maker under applicable law (the "Default Interest Rate"), and such default interest shall be due and payable on demand.

If any of the provisions of the Mortgage or this Note shall require, or be deemed or adjudicated to require, the payment, or permit the collection, of interest in excess of the maximum amount permitted by law, Maker shall not be obligated to pay, nor shall Payee be permitted to collect, interest in excess of the amount permitted by law, and the provisions of this sentence shall supersede any conflicting provisions contained herein or in the Mortgage.

If any term or provision of this Note shall be held to be invalid, illegal or unenforceable, the validity of the other terms and provisions hereof shall in no way be affected thereby.

Section 6. Notwithstanding anything in this Note or in the Loan Documents (as defined in the Mortgage) to the contrary, but subject to the qualifications hereinbelow set forth, Payee agrees that:

(a) Maker shall be liable upon the indebtedness evidenced hereby and for the other obligations arising under the Loan Documents to the full extent (but only to the extent) of the security therefor, the same being all properties (whether real or personal), rights, estates and interests now or at any time hereafter securing the payment of this Note and/or the other obligations of Maker under the Loan Documents (collectively, the "Security Property") and no attachment, execution or other writ of process shall be sought, issued or levied upon any assets, properties or funds of Maker other than the Security Property, except with respect to the liability described below in this Section; and

(b) in the event of a foreclosure of any liens, security titles, estates, assignments, rights or security interests securing the payment of this Note and/or the other obligations of Maker under the Loan Documents, no judgment for any deficiency upon the indebtedness evidenced hereby shall be sought or obtained by Payee against Maker, provided, however, that, notwithstanding the foregoing provisions of this Section, Maker shall be fully and personally liable and subject to legal action (i) for proceeds paid under any insurance policies (or paid as a result of any other claim or cause of action against any person or entity) by reason of damage, loss or destruction to all or any portion of the

Security Property, to the full extent of such proceeds not previously delivered to Payee, but which, under the terms of the Loan Documents, should have been delivered to Payee, (ii) for proceeds or awards resulting from the condemnation or other taking in lieu of condemnation of all or any portion of the Security Property, to the full extent of such proceeds or awards not previously delivered to Payee, but which, under the terms of the Loan Documents, should have been delivered to Payee, (iii) for all tenant security deposits or other refundable deposits paid to or held by Maker or any other person or entity in connection with leases of all or any portion of the Security Property which are not applied in accordance with the terms of the applicable lease or other agreement, (iv) for rent and other payments received from tenants under leases of all or any portion of the Security Property paid more than one (1) month in advance, (v) for rents, issues, profits and revenues of all or any portion of the Security Property received or applicable to a period after the occurrence of any Event of Default or any event which, with notice or the passage of time, or both, would constitute an Event of Default, hereunder or under the Loan Documents which are not either applied to the ordinary and necessary expenses of owning and operating the Security Property or paid to Payee, (vi) for waste committed on the Security Property, damage to the Security Property as a result of the intentional misconduct or gross negligence of Maker or any of its principals, officers, general partners or members or any agent or employee of any such person, or any removal of all or any portion of the Security Property in violation of the terms of the Loan Documents, to the full extent of the losses or damages incurred by Payee on account of such occurrence, (vii) for failure to pay any valid taxes, assessments, mechanic's liens, materialmen's liens or other liens which could create liens on any portion of the Security Property which would be superior to the lien or security title of the Mortgage or the other Loan Documents, to the full extent of the amount claimed by any such lien claimant except, with respect to any such taxes or assessments, to the extent that funds have been deposited with Payee pursuant to the terms of the Mortgage specifically for the applicable taxes or assessments and not applied by Payee to pay such taxes and assessments, (viii) for all obligations and indemnities of Maker under the Loan Documents relating to hazardous or toxic substances or compliance with environmental laws and regulations to the full extent of any losses or damages (including those resulting from diminution in value of any Security Property) incurred by Payee as a result of the existence of such hazardous or toxic substances or failure to comply with environmental laws or regulations, and (ix) for fraud, material misrepresentation or failure to disclose a material fact by Maker or any of its principals, officers, general partners or members, any guarantor, any indemnitor or any agent, employee or other person authorized or apparently authorized to make statements, representations or disclosures on behalf of Maker, any principal, officer, general partner or member of Maker, any guarantor or indemnitor or any agent or employee of any such person, to the full extent of any losses, damages and expenses of Payee on account thereof. Nothing contained in this Section shall (1) be deemed to be a release or impairment of the indebtedness evidenced by this Note or the other obligations of Maker under the Loan Documents or the lien of the Loan Documents upon the Security Property, (2) preclude Payee from foreclosing the Security Property in case of any default or from enforcing any of the other rights of Payee except as stated in this Section, or (3) limit or impair in any way whatsoever the Environmental Indemnity Agreement (the "Environmental Indemnity Agreement"), of even

date herewith executed and delivered in connection with the indebtedness evidenced by this Note or release, relieve, reduce, waive or impair in any way whatsoever, any obligation of any party to the Environmental Indemnity Agreement.

(c) Notwithstanding anything to the contrary in this Note, the Mortgage or any of the other Loan Documents, Payee shall not be deemed to have waived any right which Payee may have under Section 506(a), 506(b), 1111(b) or any other provisions of the U.S. Bankruptcy Code to file a claim for the full amount of the indebtedness evidenced hereby or secured by the Mortgage or any of the other Loan Documents or to require that all collateral shall continue to secure all of the indebtedness owing to Payee in accordance with this Note, the Mortgage and the other Loan Documents.

Section 7. (a) MAKER, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (i) SUBMITS TO PERSONAL JURISDICTION IN THE STATE IN WHICH THE MORTGAGED PROPERTY IS LOCATED OVER ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON ARISING FROM OR RELATING TO THIS NOTE, (ii) AGREES THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION SITTING IN THE COUNTY IN WHICH THE MORTGAGED PROPERTY IS LOCATED, (iii) SUBMITS TO THE JURISDICTION OF SUCH COURTS AND (iv) TO THE FULLEST EXTENT PERMITTED BY LAW, AGREES THAT IT WILL NOT BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM (BUT NOTHING HEREIN SHALL AFFECT THE RIGHT OF PAYEE TO BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM).

(b) EACH OF MAKER AND PAYEE BY ITS ACCEPTANCE OF THIS NOTE, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THE INDEBTEDNESS EVIDENCED BY THIS NOTE OR ANY CONDUCT, ACT OR OMISSION OF PAYEE OR MAKER, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH PAYEE OR MAKER, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. MAKER HEREBY CONSENTS AND AGREES TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING ARISING FROM OR RELATING TO THIS NOTE BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID TO MAKER AT THE ADDRESS SET FORTH IN THE MORTGAGE.

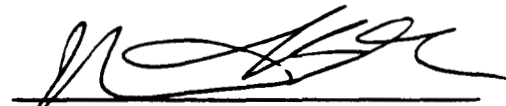
(c) This Note shall be governed by and construed in accordance with, the laws of the state in which the Mortgaged Property is located.



IN WITNESS WHEREOF, Maker has caused this Note to be executed as of the date set forth above.

SANDPIPER MOBILE MANOR  
ASSOCIATES, L.L.C., a Michigan  
limited liability company

By



Name: Peter Beer

Title: Managing Member

2

**RECORDED DOCUMENT  
NOT YET RECEIVED**

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SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.,

as Mortgagor

to

TRANSATLANTIC CAPITAL COMPANY, L.L.C.,

as Mortgagee

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MORTGAGE AND SECURITY AGREEMENT

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Dated: October 26, 1998

PREPARED BY AND UPON RECORDATION RETURN TO:

Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
233 S. Wacker Drive  
Chicago, IL 60606-6404

Attention: Steven R. Davidson, Esq.

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## MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (this "Mortgage") is dated as of October 26, 1998 and is given by SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., a Michigan limited liability company, as mortgagor ("Mortgagor"), whose address is 18700 W. Ten Mile Road, Southfield, Michigan 48075 to TRANSATLANTIC CAPITAL COMPANY, L.L.C., a Delaware limited liability company, as mortgagee, and its successors and/or assigns ("Mortgagee"), whose address is 31 West 52nd Street, 10th Floor, New York, New York 10019.

### W I T N E S S E T H:

In order to secure:

(A) The debt evidenced by that certain Promissory Note (such Promissory Note, together with any and all renewals, amendments, modifications, consolidations and extensions thereof, is hereinafter referred to as the "Note") of even date with this Mortgage, made by Mortgagor payable to the order of Mortgagee in the principal face amount of TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00), together with interest as therein provided;

(B) The full and prompt payment and performance of all of the provisions, agreements, covenants and obligations herein contained and contained in any other agreements, documents or instruments now or hereafter evidencing, securing or otherwise relating to the Debt (the Note, this Mortgage, and such other agreements, documents and instruments, together with any and all renewals, amendments, extensions and modifications thereof, are hereinafter collectively referred to as the "Loan Documents") and the payment of all other sums herein or therein covenanted to be paid;

(C) Any and all additional advances made by Mortgagee to protect or preserve the Mortgaged Property or the lien or security interest created hereby on the Mortgaged Property, or for any other purpose provided herein or in the other Loan Documents (whether or not the original Mortgagor remains the owner of the Mortgaged Property at the time of such advances); and

(D) Any and all other indebtedness now owing or which may hereafter be owing by Mortgagor to Mortgagee, however and whenever incurred or evidenced, whether express or implied, direct or indirect, absolute or contingent, or due or to become due.

(All of the sums and covenants referred to in Paragraphs (A) through (D) above are herein referred to as the "Debt");

And in consideration of the Debt and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor hereby irrevocably mortgages, grants, bargains, sells, conveys, transfers, pledges, sets over and assigns to Mortgagee, with power of sale, and creates a security interest in, all of Mortgagor's estate, right, title and interest in, to

and under any and all of the following described property, whether now owned or hereafter acquired by Mortgagor (collectively, the "Mortgaged Property"):

(1) All that certain real property situated in the County of Lake, State of Florida, more particularly described in Exhibit A attached hereto (the "Premises"), together with all of the easements, rights and appurtenances now or hereafter in any way appertaining thereto, either at law or in equity, whether now owned or hereafter acquired by Mortgagor;

(2) All structures, buildings and improvements of every kind and description now or at any time hereafter located on the Premises (the "Improvements");

(3) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, and other emblements now or hereafter located on the Premises or under or above the same or any part thereof, and all estates, rights, interests and appurtenances, reversions and remainders whatsoever, in any way belonging or appertaining to the Mortgaged Property or any part thereof, whether now owned or hereafter acquired by Mortgagor;

(4) All water, ditches, wells, reservoirs and drains and all water, ditch, well, reservoir and drainage rights which are appurtenant to, located on, under or above or used in connection with the Premises or the Improvements, or any part thereof, whether now existing or hereafter created or acquired by Mortgagor;

(5) All minerals, crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above the Premises;

(6) All building materials, supplies and equipment now or hereafter placed on the Premises or in the Improvements;

(7) All furniture, furnishings, fixtures, goods, equipment, inventory or personal property owned by Mortgagor and now or hereafter located on, attached to or used in and about the Improvements, including, but not limited to, all machines, engines, boilers, dynamos, elevators, stokers, tanks, cabinets, awnings and all appliances, communication, plumbing, heating, air conditioning, lighting, ventilating, refrigerating, disposal and incinerating equipment, and sprinkler and fire and theft protection equipment, and all fixtures and appurtenances thereto, and such other goods and chattels and personal property owned by Mortgagor as are now or hereafter used or furnished in operating the Improvements, or the activities conducted therein, and all building materials and equipment hereafter situated on or about the Premises or Improvements, and all warranties and guaranties relating thereto, and all additions thereto and substitutions and replacements therefor (exclusive of any of the foregoing owned or leased by tenants of space in the Improvements except to the extent any of the same constitute fixtures) (collectively, the "Equipment"). To the extent any portion of the Equipment is not deemed real property or Fixtures under applicable law, it shall be deemed to be personal property, and this Mortgage shall be deemed to constitute a security agreement for the purposes of creating a

security interest therein in favor of Lender under the Uniform Commercial Code of the state in which the Premises are located (the "UCC");

(8) All leases (including, without limitation, oil, gas and mineral leases), licenses, concessions and occupancy agreements of all or any part of the Premises or the Improvements (each, a "Lease" and collectively, "Leases"), whether written or oral, now or hereafter entered into and all rents, royalties, issues, profits, bonus money, revenue, income, rights and other benefits (collectively, the "Rents and Profits") of the Premises or the Improvements, now or hereafter arising from the use or enjoyment of all or any portion thereof or from any present or future Lease or other agreement pertaining thereto or any of the General Intangibles and all cash or securities deposited to secure performance by the tenants, lessees or licensees (each, a "Tenant" and collectively, "Tenants"), as applicable, of their obligations under any such Leases, whether said cash or securities are to be held until the expiration of the terms of said Leases or applied to one or more of the installments of rent coming due prior to the expiration of said terms, subject, however, to the provisions contained in Section 6.1 hereinbelow;

(9) All contracts and agreements now or hereafter entered into covering any part of the Premises or the Improvements (collectively, the "Contracts") and all revenue, income and other benefits thereof, including, without limitation, management agreements, service contracts, maintenance contracts, equipment leases, personal property leases and any contracts or documents relating to construction on any part of the Premises or the Improvements (including all architectural renderings, models, specifications, plans, drawings, surveys, tests, reports, data, bonds and governmental approvals) or to the management or operation of any part of the Premises or the Improvements;

(10) All water taps, sewer taps, certificates of occupancy, permits, licenses, franchises, certificates, consents, approvals and other rights and privileges now or hereafter obtained in connection with the Premises or the Improvements and all present and future warranties and guaranties relating to the Improvements or to any equipment, fixtures, furniture, furnishings, personal property or components of any of the foregoing now or hereafter located or installed on the Premises or the Improvements;

(11) All present and future funds, accounts, instruments, accounts receivable, documents, claims, rights to refunds, general intangibles (including, without limitation, trademarks, trade names, service marks and symbols now or hereafter used in connection with any part of the Premises or the Improvements, all names by which the Premises or the Improvements may be operated or known, all rights to carry on business under such names, and all rights, interest and privileges which Mortgagor has or may have as developer or declarant under any covenants, restrictions or declarations now or hereafter relating to the Premises or the Improvements) (collectively, the "General Intangibles");

(12) All insurance policies or binders now or hereafter relating to the Mortgaged Property, including any unearned premiums thereon;

(13) All cash funds, deposit accounts and other rights and evidence of rights to cash, now or hereafter created or held by Mortgagee pursuant to this Mortgage or any other of the Loan Documents, including, without limitation, all funds now or hereafter on deposit in the Impound Account, the Rent Account, the Payment Reserve, the Replacement Reserve and the Repair and Remediation Reserve and all notes or chattel paper now or hereafter arising from or by virtue of any transactions related to the Premises or the Improvements;

(14) All present and future monetary deposits given by Mortgagor to any public or private utility with respect to utility services furnished to any part of the Premises or the Improvements;

(15) All proceeds, products, substitutions and accessions (including claims and demands therefor) of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and

(16) All other or greater rights and interests of every nature in the Premises and the Improvements and in the possession or use thereof and income therefrom, whether now owned or hereafter acquired by Mortgagor.

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee, its successors and assigns forever, and Mortgagor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property, subject only to the Permitted Encumbrances, to Mortgagee against every person whomsoever may lawfully claim the same or any part thereof;

PROVIDED, HOWEVER, that if the Debt shall have been paid and performed in full, then, in such case, the liens, security interests, estates and rights granted by this Mortgage shall be satisfied and the estate, right, title and interest of Mortgagee in the Mortgaged Property shall cease, and upon payment to Mortgagee of all costs and expenses incurred for the preparation of the release hereinafter referenced and all recording costs if allowed by law, Mortgagee shall promptly satisfy and release this Mortgage of record and the lien hereof by proper instrument.

For the purpose of further securing the Debt for so long as the Debt or any part thereof remains incomplete or unpaid, Mortgagor covenants and agrees as follows:

#### ARTICLE I. TAXES AND UTILITIES

1.1 Payment of Taxes. Mortgagor shall pay or cause to be paid, except to the extent provision is actually made therefor pursuant to Section 1.2 below, all taxes and assessments which are or may become a lien on any portion of, or interest in, the Mortgaged Property or which are assessed against or imposed upon any portion of, or interest in the Mortgaged Property. Mortgagor shall furnish Mortgagee with receipts (or if receipts are not immediately

available, with copies of canceled checks evidencing payment with receipts to follow promptly after they become available) showing payment of such taxes and assessments at least fifteen (15) days prior to the applicable delinquency date therefor. Notwithstanding the foregoing, Mortgagor may, in good faith, by appropriate proceedings and upon notice to Mortgagee, contest the validity, applicability or amount of any asserted tax or assessment so long as (a) such contest is diligently pursued, (b) Mortgagee determines, in its subjective opinion, that such contest suspends the obligation to pay the tax and that nonpayment of such tax or assessment will not result in the sale, loss, forfeiture or diminution of the Mortgaged Property or any part thereof or any interest of Mortgagee therein and (c) prior to the earlier of the commencement of such contest or the delinquency date of the asserted tax or assessment, Mortgagor deposits in the Impound Account an amount determined by Mortgagee to be adequate to cover the payment of such tax or assessment and an additional sum sufficient in the sole judgment of Mortgagee to cover possible interest, costs and penalties; provided, however, that taxes, assessments, interest, costs and penalties owing shall be paid by Mortgagor prior to the date any writ or order is issued under which the Mortgaged Property may be sold, lost or forfeited.

1.2 Tax and Insurance Impound Account. Mortgagor shall establish and maintain at all times while this Mortgage continues in effect an impound account (the "Impound Account") with Mortgagee for payment of real estate taxes and assessments and insurance on the Mortgaged Property and as additional security for the Debt. Simultaneously with the execution hereof, Mortgagor shall deposit in the Impound Account an amount reasonably determined by Mortgagee. Commencing on the first Payment Date under the Note and continuing thereafter on each subsequent Payment Date, Mortgagor shall pay to Mortgagee, concurrently with and in addition to the monthly payment due under the Note and until the Debt is fully paid and performed, deposits in an amount equal to one-twelfth (1/12) of the amount of the annual real estate taxes and assessments that will next become due and payable on the Mortgaged Property, plus one-twelfth (1/12) of the amount of the annual premiums that will next become due and payable on insurance policies which Mortgagor is required to maintain hereunder, each as estimated and determined by Mortgagee. So long as no Event of Default has occurred which has not been waived, and no event has occurred or failed to occur which with the passage of time, the giving of notice, or both would constitute an Event of Default (a "Default"), all sums in the Impound Account shall be held by Mortgagee in the Impound Account to pay said taxes, assessments and insurance premiums before the same become delinquent. Mortgagor shall be responsible for ensuring the receipt by Mortgagee, at least thirty (30) days prior to the respective due date for payment thereof, of all bills, invoices and statements for all taxes, assessments and insurance premiums to be paid from the Impound Account, and so long as no Event of Default has occurred and not been waived, Mortgagee shall pay the governmental authority or other party entitled thereto directly to the extent funds are available for such purpose in the Impound Account. No interest on funds contained in the Impound Account, if any, shall be paid by Mortgagee to Mortgagor.

1.3 Payment of Utilities, Assessments, Charges, Etc. Mortgagor shall pay when due all utility charges which are incurred by Mortgagor or which may become a charge or lien against any portion of the Mortgaged Property for gas, electricity, water and sewer services

furnished to the Premises and/or the Improvements and all other assessments or charges of a similar nature, or assessments payable pursuant to any restrictive covenants, whether public or private, affecting the Premises and/or the Improvements or any portion thereof, whether or not such assessments or charges are or may become liens thereon.

1.4 Additional Taxes. In the event of the enactment after the date hereof of any law imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or security agreements or the interest of the mortgagee or secured party in the property covered thereby, or the manner of collection of such taxes, so as to adversely affect this Mortgage or the Debt or Mortgagee, then, and in any such event, Mortgagor, upon demand by Mortgagee, shall pay such taxes, assessments, charges or liens, or reimburse Mortgagee therefor; provided, however, that if, in the opinion of counsel for Mortgagee, (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in either such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the Debt to be and become due and payable in full ninety (90) days from the giving of such notice, and, in connection with such payment of the Debt, no prepayment premium or fee shall be due.

## ARTICLE II. INSURANCE

2.1 Insurance. Mortgagor shall, at Mortgagor's expense, maintain in force and effect on the Mortgaged Property at all times while this Mortgage continues in effect the following insurance:

(a) Insurance against loss or damage to the Mortgaged Property by fire, windstorm, lightning, tornado and hail and against loss and damage by such other, additional risks as may be now or hereafter embraced by an "all-risk" form of insurance policy. The amount of such insurance shall be not less than one hundred percent (100%) of the full replacement cost (insurable value) of the Improvements (as established by an MAI appraisal), without reduction for depreciation. The determination of the replacement cost amount shall be adjusted annually to comply with the requirements of the insurer issuing such coverage or, at Mortgagee's election, by reference to such indices, appraisals or information as Mortgagee determines in its reasonable discretion in order to reflect increased value due to inflation. In addition, each policy shall contain inflation guard coverage. Full replacement cost, as used herein, means, with respect to the Improvements, the cost of replacing the Improvements without regard to deduction for depreciation, exclusive of the cost of excavations, foundations and footings below the lowest basement floor. Mortgagor shall also maintain insurance against loss or damage to furniture, furnishings, fixtures, equipment and other items (whether personalty or fixtures) included in the Mortgaged Property and owned by Mortgagor from time to time to the extent applicable.



(b) Commercial General Liability Insurance against claims for personal injury, bodily injury, death and property damage occurring on, in or about the Premises or the Improvements in amounts not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate plus umbrella coverage in an amount not less than \$2,000,000. Mortgagee hereby retains the right to periodically review the amount of said liability insurance and to require an increase in the amount of said liability insurance should Mortgagee deem an increase to be reasonably prudent under then existing circumstances.

(c) Boiler and machinery insurance (including explosion coverage), if steam boilers or other pressure-fired vessels are in operation at the Premises. Minimum liability coverage per accident must equal the greater of the replacement cost (insurable value) of the Improvements housing such boiler or pressure-fired machinery or \$2,000,000. If one or more HVAC units is in operation at the Premises, "Systems Breakdowns" coverage shall be required, as determined by Mortgagee. Minimum liability coverage per accident must equal the replacement value of such unit(s).

(d) If the Improvements or any part thereof is situated in an area designated by the Federal Emergency Management Agency ("FEMA") as a special flood hazard area (Zone A or Zone V), flood insurance in an amount equal to the lesser of: (a) the minimum amount required, under the terms of coverage, to compensate for any damage or loss on a replacement basis (or the unpaid balance of the Debt if replacement cost coverage is not available for the type of building insured), or (b) the maximum insurance available under the appropriate National Flood Insurance Administration program. The maximum deductible shall be \$10,000 per building or a higher minimum amount as required by FEMA or other applicable law.

(e) During the period of any construction, renovation or alteration of the existing Improvements which exceeds the lesser of 10% of the principal amount of the Note or \$500,000, at Mortgagee's request, a completed value, "All Risk" Builder's Risk form or "Course of Construction" insurance policy in non-reporting form, in an amount approved by Mortgagee, may be required. During the period of any construction of any addition to the existing Improvements, a completed value, "All Risk" Builder's Risk form or "Course of Construction" insurance policy in non-reporting form, in an amount approved by Mortgagee, shall be required.

(f) Worker's Compensation and Employer's Liability Insurance covering all appropriate persons.

(g) Business income (loss of rents) insurance in amounts sufficient to compensate Mortgagor for all Rents and Profits and other income during a period of not less than twelve (12) months. The amount of coverage shall be adjusted annually to reflect the Rents and Profits or income payable during the succeeding twelve (12) month period.

(h) Such other insurance on the Mortgaged Property or on any replacements or substitutions thereof or additions thereto as may from time to time be required by Mortgagee

against other insurable hazards or casualties which at the time are commonly insured against in the case of property similarly situated including, without limitation, sinkhole, mine subsidence, earthquake and environmental insurance, due regard being given to the height and type of Improvements, their construction, location, use and occupancy.

All such insurance shall (i) be with insurers fully licensed and authorized to do business in the state within which the Premises is located and which have and maintain a rating of at least (1) BBB from Standard & Poors, or equivalent or (2) A-VII or higher from A.M. Best, (ii) contain the complete address of the Premises (or a complete legal description), (iii) be for terms of at least one year, with premium prepaid, and (iv) be subject to the approval of Mortgagee as to insurance companies, amounts, content, forms of policies and expiration dates, and (v) include a standard, non-contributory, mortgagee clause naming EXACTLY:

TRANSATLANTIC CAPITAL COMPANY, L.L.C.,  
its successors and assigns, ATIMA  
31 West 52nd Street  
10th Floor  
New York, New York 10019

(a) as an additional insured under all liability insurance policies, (b) as the first mortgagee and loss payee on all property insurance policies and (c) as the loss payee on all loss of rents or loss of business income insurance policies.

Mortgagor shall deliver to Mortgagee certificates and policies evidencing the insurance required to be maintained hereunder at least thirty (30) days before any such insurance shall expire. Mortgagor further agrees that each such insurance policy: (i) shall provide for at least thirty (30) days' prior written notice to Mortgagee prior to any policy reduction or cancellation for any reason other than non-payment of premium and at least ten (10) days' prior written notice to Mortgagee prior to any cancellation due to non-payment of premium; (ii) shall contain an endorsement or agreement by the insurer that any loss shall be payable to Mortgagee in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor or any other person which might otherwise result in forfeiture of such insurance; (iii) shall waive all rights of subrogation against Mortgagee; (iv) in the event that the Premises or the Improvements constitutes a legal non-conforming use under applicable building, zoning or land use laws or ordinances, shall include an ordinance and law coverage endorsement which will contain Coverage A: "Loss Due to Operation of Law" (with a minimum liability limit equal to Replacement Cost With Agreed Value Endorsement), Coverage B: "Demolition Cost" and Coverage C: "Increased Cost of Construction" coverages; (v) unless otherwise specified above, shall have a maximum deductible of \$10,000; (vi) shall contain a replacement cost endorsement and either an agreed amount endorsement (to avoid the operation of any co-insurance provisions) or a waiver of any co-insurance provisions, all subject to Mortgagee's approval; and (vii) may be in the form of a blanket policy, provided that, Mortgagor hereby acknowledges and agrees that failure to pay any portion of the premium therefor which is not allocable to the Mortgaged Property or any other action not relating to the Mortgaged Property which would otherwise

permit the issuer thereof to cancel the coverage thereof, would require the Mortgaged Property to be insured by a separate, single-property policy and the blanket policy must properly identify and fully protect the Mortgaged Property as if a separate policy were issued for 100% of Replacement Cost at the time of loss and otherwise meet all of Mortgagee's applicable insurance requirements set forth in this Section 2.1. The delivery to Mortgagee of the insurance policies or the certificates of insurance as provided above shall constitute an assignment of all proceeds payable under such insurance policies relating to the Mortgaged Property by Mortgagor to Mortgagee as further security for the Debt. In the event of the foreclosure of this Mortgage, or other transfer of title to the Mortgaged Property in extinguishment in whole or in part of the Debt, all right, title and interest of Mortgagor in and to all proceeds payable under such policies then in force concerning the Mortgaged Property shall thereupon vest in the purchaser at such foreclosure, or in Mortgagee or other transferee in the event of such other transfer of title. Approval of any insurance by Mortgagee shall not be a representation of the solvency of any insurer or the sufficiency of any amount of insurance. In the event Mortgagor fails to provide, maintain, keep in force or deliver and furnish to Mortgagee the policies of insurance required by this Mortgage or evidence of their replacement or renewal as required herein, Mortgagee may, but shall not be obligated to, procure such insurance and Mortgagor shall pay all amounts advanced by Mortgagee therefor, together with interest thereon at the Default Interest Rate from and after the date advanced by Mortgagee until actually repaid by Mortgagor, promptly upon demand by Mortgagee. Mortgagee shall not be responsible for nor incur any liability for the failure of the insurer to perform, even though Mortgagee has caused the insurance to be placed with the insurer after failure of Mortgagor to furnish such insurance. Mortgagor shall not obtain insurance for the Mortgaged Property in addition to that required by Mortgagee without the prior written consent of Mortgagee, which consent will not be unreasonably withheld provided that (i) Mortgagee is a named insured on such insurance, (ii) Mortgagee receives complete copies of all policies evidencing such insurance, and (iii) such insurance complies with all of the applicable requirements set forth herein.

### ARTICLE III. CASUALTY AND CONDEMNATION

3.1 Casualty and Condemnation. Mortgagor shall give Mortgagee prompt written notice of the occurrence of any casualty affecting, or the institution of any proceedings for eminent domain or for the condemnation of, the Mortgaged Property or any portion thereof. All insurance proceeds on the Mortgaged Property, and all causes of action, claims, compensation, awards and recoveries for any damage, condemnation or taking of all or any part of the Mortgaged Property or for any diminution in value of the Mortgaged Property, are hereby assigned to and shall be paid to Mortgagee. Mortgagee may participate in any suits or proceedings relating to any such proceeds, causes of action, claims, compensation, awards or recoveries, and Mortgagee is hereby authorized, in its own name or in Mortgagor's name, to adjust any loss covered by insurance or any condemnation claim or cause of action, and to settle or compromise any claim or cause of action in connection therewith, and Mortgagor shall from time to time deliver to Mortgagee any instruments required to permit such participation; provided, however, that, so long as no Default or Event of Default shall have occurred and not

been waived. Mortgagee shall not have the right to participate in the adjustment of any loss which is not in excess of the lesser of (i) five percent (5%) of the then outstanding principal balance of the Note and (ii) \$100,000. Mortgagee shall apply any sums received by it under this Section first to the payment of all of its costs and expenses (including, but not limited to, reasonable legal fees and disbursements) incurred in obtaining those sums, and then, as follows:

(a) In the event that less than twenty-five percent (25%) of the Improvements located on the Premises have been taken or destroyed, then if and so long as:

(1) no Default or Event of Default has occurred hereunder or under any of the other Loan Documents and has not been waived, and

(2) the Mortgaged Property can, in Mortgagee's judgment, with diligent restoration or repair, be returned to a condition at least equal to the condition thereof that existed prior to the casualty or partial taking causing the loss or damage within the earlier to occur of (i) For loans of less than \$10,000,000 - six (6) months after the receipt of insurance proceeds or condemnation awards by either Mortgagor or Mortgagee, and (ii) sixty (60) days prior to the stated maturity date of the Note, and

(3) all necessary governmental approvals can be obtained to allow the rebuilding and reoccupancy of the Mortgaged Property as described in subsection (2) above, and

(4) there are sufficient sums available (through insurance proceeds or condemnation awards and contributions by Mortgagor, the full amount of which shall, at Mortgagee's option, have been deposited with Mortgagee) for such restoration or repair (including, without limitation, for any costs and expenses of Mortgagee to be incurred in administering said restoration or repair) and for payment of principal and interest to become due and payable under the Note during such restoration or repair, and

(5) the economic feasibility of the Improvements after such restoration or repair will be such that income from their operation is reasonably anticipated to be sufficient to pay operating expenses of the Mortgaged Property and debt service on the Debt in full with the same coverage ratio considered by Mortgagee in its determination to make the loan secured hereby, and

(6) in the event that the insurance proceeds or condemnation awards received as a result of such casualty or partial taking exceed the lesser of (i) five percent (5%) of the then outstanding principal balance of the Note and (ii) \$150,000, Mortgagor shall have delivered to Mortgagee, at Mortgagor's sole cost and expense, an appraisal report from an appraiser satisfactory to Mortgagee in form and substance satisfactory to Mortgagee appraising the value of the Mortgaged Property as proposed to be restored or repaired to be not less than the appraised value of the Mortgaged Property considered by Mortgagee in its determination to make the loan secured hereby, and

(7) Mortgagor so elects by written notice delivered to Mortgagee within five (5) days after settlement of the aforesaid insurance or condemnation claim,

then, Mortgagee shall, solely for the purposes of such restoration or repair, advance so much of the remainder of such sums as may be required for such restoration or repair, and any funds deposited by Mortgagor therefor, to Mortgagor in the manner and upon such terms and conditions as would be required by a prudent interim construction lender, including, but not limited to, the prior approval by Mortgagee of plans and specifications, contractors and form of construction contracts and the furnishing to Mortgagee of permits, bonds, lien waivers, invoices, receipts and affidavits from contractors and subcontractors, in form and substance satisfactory to Mortgagee in its discretion, with any remainder being applied by Mortgagee for payment of the Debt in whatever order Mortgagee directs in its absolute discretion.

(b) In all other cases, namely, in the event that twenty-five percent (25%) or more of the Improvements located on the Premises have been taken or destroyed or Mortgagor does not elect to restore or repair the Mortgaged Property pursuant to clause (a) above or otherwise fails to meet the requirements of clause (a) above, then, in any of such events, Mortgagee may elect, in Mortgagee's absolute discretion and without regard to the adequacy of Mortgagee's security, to do either of the following: (1) accelerate the maturity date of the Note and declare any and all of the Debt to be immediately due and payable and apply the remainder of such sums received pursuant to this Section to the payment of the Debt in whatever order Mortgagee directs in its absolute discretion, with any remainder being paid to Mortgagor, or (2) notwithstanding that Mortgagor may have elected not to restore or repair the Mortgaged Property pursuant to the provisions of Section 3.1(a)(7) above, require Mortgagor to restore or repair the Mortgaged Property in the manner and upon such terms and conditions as would be required by a prudent interim construction lender, including, but not limited to, the deposit by Mortgagor with Mortgagee, within thirty (30) days after demand therefor, of any deficiency reasonably determined by Mortgagee to be necessary in order to assure the availability of sufficient funds to pay for such restoration or repair, including Mortgagee's costs and expenses to be incurred in connection therewith, the prior approval by Mortgagee of plans and specifications, contractors and form of construction contracts and the furnishing to Mortgagee of permits, bonds, lien waivers, invoices, receipts and affidavits from contractors and subcontractors, in form and substance satisfactory to Mortgagee in its discretion, and apply the remainder of such sums toward such restoration and repair, with any balance thereafter remaining being applied by Mortgagee for payment of the Debt in whatever order Mortgagee directs in its absolute discretion.

Any reduction in the Debt resulting from Mortgagee's application of any sums received by it hereunder shall take effect only when Mortgagee actually receives such sums and elects to apply such sums to the Debt and, in any event, the unpaid portion of the Debt shall remain in full force and effect and Mortgagor shall not be excused in the payment thereof. Partial payments received by Mortgagee, as described in the preceding sentence, shall be applied first to the final payment due under the Note and thereafter to installments due under the Note in the inverse order of their due date. If Mortgagor elects or Mortgagee directs Mortgagor to restore or repair

the Mortgaged Property after the occurrence of a casualty or partial taking of the Mortgaged Property as provided above, Mortgagor shall promptly and diligently, at Mortgagor's sole cost and expense and regardless of whether the insurance proceeds or condemnation award, as appropriate, shall be sufficient for such purpose, restore, repair, replace and rebuild the Mortgaged Property as nearly as possible to its value, condition and character immediately prior to such casualty or partial taking in accordance with the foregoing provisions and Mortgagor shall pay to Mortgagee all costs and expenses of Mortgagee incurred in administering said rebuilding, restoration or repair. Mortgagor agrees to execute and deliver from time to time such further instruments as may be requested by Mortgagee to confirm the assignment to Mortgagee of any award, damage, insurance proceeds, payment or other compensation. Mortgagee is hereby irrevocably constituted and appointed the attorney-in-fact of Mortgagor, with full power of substitution, subject to the terms of this Section, to settle for, collect and receive any such awards, damages, insurance proceeds, payments or other compensation from the parties or authorities making the same, to appear in and prosecute any proceedings therefor and to give receipts and acquittances therefor.

#### ARTICLE IV. ENVIRONMENTAL MATTERS

##### 4.1 Hazardous Waste and Other Substances.

(a) Mortgagor hereby represents and warrants to Mortgagee that, as of the date hereof: (i) to the best of Mortgagor's knowledge, information and belief, none of Mortgagor nor the Mortgaged Property nor any Tenant at the Premises nor the operations conducted thereon has at any time been or presently is in direct or indirect violation of or otherwise exposed to any liability under any local, state or federal law, rule or regulation or common law duty pertaining to human health, natural resources or the environment (collectively, "Environmental Laws"), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et seq.) ("CERCLA"), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Emergency Planning and Community-Right-to-Know Act (42 U.S.C. § 11001 et seq.), the Endangered Species Act (16 U.S.C. § 1531 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.) or the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), or any regulations promulgated pursuant to said laws, all as amended from time to time; (ii) no hazardous, toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos or asbestos-containing materials, lead based paint, polychlorinated biphenyls, petroleum or petroleum products or byproducts, flammable explosives, radioactive materials, infectious substances or raw materials which include hazardous constituents) or any other substances or materials which are included under or regulated by Environmental Laws (collectively, "Hazardous Substances") are located on, in or under or have been handled, generated, stored, processed or disposed of on or released or discharged from the Mortgaged Property (including underground contamination), except for those substances used by Mortgagor or any Tenant in the ordinary

course of their respective businesses and in compliance with all Environmental Laws and where such could not reasonably be expected to give rise to liability under Environmental Laws ("Permitted Materials"); (iii) the Mortgaged Property is not subject to any private or governmental lien arising under Environmental Laws; (iv) there is no pending, nor, to Mortgagor's knowledge, information or belief, threatened litigation arising under Environmental Laws affecting Mortgagor or the Mortgaged Property; there are no and have been no existing or closed underground storage tanks or other underground storage receptacles for Hazardous Substances or landfills or dumps on the Mortgaged Property; (v) Mortgagor has received no notice of, and to the best of Mortgagor's knowledge and belief, there exists no investigation, action, proceeding or claim by any agency, authority or unit of government or by any third party which could result in any liability, penalty, sanction or judgment under any Environmental Laws with respect to any condition, use or operation of the Mortgaged Property, nor does Mortgagor know of any basis for such an investigation, action, proceeding or claim; and (vi) Mortgagor has received no notice of and, to the best of Mortgagor's knowledge and belief, there has been no claim by any party that any use, operation or condition of the Mortgaged Property has caused any nuisance or any other liability or adverse condition on any other property, nor does Mortgagor know of any basis for such an investigation, action, proceeding or claim.

(b) Mortgagor has not received nor, to the best of Mortgagor's knowledge, information and belief has there been issued, any notice, notification, demand, request for information, citation, summons, or order in any way relating to any actual, alleged or potential violation or liability arising under Environmental Laws.

(c) Neither the Mortgaged Property, nor to the best of Mortgagor's knowledge, information and belief, any property to which Mortgagor has, in connection with the maintenance or operation of the Mortgaged Property, directly or indirectly transported or arranged for the transportation of any Hazardous Substances is listed or, to the best of Mortgagor's knowledge, information and belief, proposed for listing on the National Priorities List promulgated pursuant to CERCLA, on CERCLIS (as defined in CERCLA) or on any similar federal or state list of sites requiring environmental investigation or clean-up.

(d) Mortgagor shall comply with all applicable Environmental Laws. Mortgagor shall keep or cause the Mortgaged Property to be kept free from Hazardous Substances (except Permitted Materials).

(e) Mortgagor shall promptly notify Mortgagee of (i) the actual or potential existence of any Hazardous Substances on the Mortgaged Property other than Permitted Materials, (ii) any direct or indirect violation relating to the Mortgaged Property of, or other exposure to liability under, any Environmental Laws, (iii) any lien, action or notice affecting the Mortgaged Property or Mortgagor resulting from any violation or alleged violation of or liability or alleged liability under any Environmental Laws arising from any condition or activity on the Mortgaged Property, (iv) the institution of any investigation, inquiry or proceeding concerning Mortgagor or the Mortgaged Property pursuant to any Environmental Laws or otherwise relating to Hazardous Substances, or (v) the discovery of any occurrence, condition or state of facts

which would render any representation or warranty contained in this Mortgage incorrect in any respect if made at the time of such discovery. Immediately upon receipt of same, Mortgagor, shall deliver to Mortgagee copies of any and all requests for information, complaints, citations, summonses, orders, notices, reports or other communications, documents or instruments in any way relating to any actual, alleged or potential violation or liability of any nature whatsoever arising under Environmental Laws and relating to the Mortgaged Property or to Mortgagor. Mortgagor shall remedy or cause to be remedied in a timely manner (and in any event within the time period permitted by applicable Environmental Laws) any violation of Environmental Laws or any condition that could give rise to liability under Environmental Laws. Without limiting the foregoing, Mortgagor shall, promptly and regardless of the source of the contamination or threat to the environment or human health, at its own expense, take all actions as shall be necessary or prudent, for the clean-up of any and all portions of the Mortgaged Property or other affected property, including, without limitation, all investigative, monitoring, removal, containment and remedial actions in accordance with all applicable Environmental Laws (and in all events in a manner satisfactory to Mortgagee) and shall further pay or cause to be paid, at no expense to Mortgagee, all clean-up, administrative and enforcement costs of applicable governmental agencies which may be asserted against the Mortgaged Property. In the event Mortgagor fails to do so, Mortgagee may, but shall not be obligated to, cause the Mortgaged Property or other affected property to be freed from any Hazardous Substances or otherwise brought into conformance with Environmental Laws. Mortgagor hereby grants to Mortgagee and its agents and employees access to the Mortgaged Property and a license to remove any items deemed by Mortgagee to be Hazardous Substances and to do all things Mortgagee shall deem necessary to bring the Mortgaged Property into conformance with Environmental Laws.

(f) Mortgagor covenants and agrees, at Mortgagor's sole cost and expense, to indemnify, defend (at trial and appellate levels, and with attorneys, consultants and experts acceptable to Mortgagee), and hold Mortgagee harmless from and against any and all liens, damages (including without limitation, punitive or exemplary damages), losses, liabilities (including, without limitation, strict liability), obligations, settlement payments, penalties, fines, assessments, citations, directives, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys', consultants' and experts' fees and disbursements actually incurred in investigating, defending, settling or prosecuting any claim, litigation or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Mortgagee or the Mortgaged Property, and arising directly or indirectly from or out of: (i) any violation or alleged violation of, or liability or alleged liability under, any Environmental Law; (ii) the presence, release or threat of release of or exposure to any Hazardous Substances on, in, under or affecting all or any portion of the Mortgaged Property or any surrounding areas, regardless of whether or not caused by or within the control of Mortgagor; (iii) any transport, treatment, recycling, storage, disposal or arrangement therefor of Hazardous Substances whether on the Mortgaged Property, originating from the Mortgaged Property, or otherwise associated with Mortgagor or any operations conducted on the Mortgaged Property at any time; (iv) the failure by Mortgagor to comply fully with the terms and conditions



of this Section 4.1; (v) the breach of any representation or warranty contained in this Section 4.1; and (vi) the enforcement of this Section 4.1. The indemnity set forth in this Section 4.1 shall also include any diminution in the value of the security afforded by the Mortgaged Property or any future reduction in the sales price of the Mortgaged Property by reason of any matter set forth in this Section 4.1. Mortgagee's rights under this Section shall survive payment in full of the Debt and shall be in addition to all other rights of Mortgagee under this Mortgage, the Note and the other Loan Documents.

(g) Upon Mortgagee's request, at any time after the occurrence of an Event of Default which has not been waived or at such other time as Mortgagee has reasonable grounds to believe that Hazardous Substances are or have been released, stored or disposed of on the Mortgaged Property, or on property affecting the Mortgaged Property, or that the Mortgaged Property may be in violation of the Environmental Laws, Mortgagor shall perform or cause to be performed, at Mortgagor's sole cost and expense and in scope, form and substance satisfactory to Mortgagee, an inspection or audit of the Mortgaged Property prepared by a hydrogeologist or environmental engineer or other appropriate consultant approved by Mortgagee indicating the presence or absence of Hazardous Substances on the Mortgaged Property, the compliance or non-compliance status of the Mortgaged Property and the operations conducted thereon with applicable Environmental Laws, or an inspection or audit of the Mortgaged Property prepared by an engineering or consulting firm approved by Mortgagee indicating the presence or absence of friable asbestos or substances containing asbestos or lead or substances containing lead or lead based paint ("Lead Based Paint") on the Mortgaged Property. If Mortgagor fails to provide reports of such inspection or audit within thirty (30) days after such request, Mortgagee may order the same at Mortgagor's expense, and Mortgagor hereby grants to Mortgagee and its employees and agents access to the Mortgaged Property and an irrevocable license to undertake such inspection or audit.

(h) Reference is made to that certain Environmental Indemnity Agreement of even date herewith from Mortgagor, Peter Been, Benedetto Sorrentino and Thomas Burnett for the benefit of Mortgagee (the "Environmental Indemnity Agreement"). The provisions of this Mortgage and the Environmental Indemnity Agreement shall be read together to maximize the coverage with respect to the subject matter thereof, as determined by Mortgagee.

(i) If the environmental report disclosed ACM's in the Mortgaged Property: Mortgagor covenants and agrees to institute, within thirty (30) days after the date hereof, an operations and maintenance program (the "Maintenance Program") designed by an environmental consultant, satisfactory to Mortgagee, with respect to asbestos containing materials ("ACM's"), consistent with "Guidelines for Controlling Asbestos-Containing Materials in Buildings" (USEPA, 1985) and other relevant guidelines, and such Maintenance Program will hereafter continuously remain in effect until the Debt secured hereby is repaid in full. In furtherance of the foregoing, Mortgagor shall inspect and maintain all ACM's on a regular basis and ensure that all ACM's shall be maintained in a condition that prevents exposure of occupants to ACM's at all times. Without limiting the generality of the preceding sentence, Mortgagee may require (i) periodic notices or reports to Mortgagee in form, substance and at such intervals as

Mortgagee may specify, (ii) an amendment to such operations and maintenance program to address changing circumstances, laws or other matters, (iii) at Mortgagor's sole expense, supplemental examination of the Mortgaged Property by consultants specified by Mortgagee, and (iv) variation of the operations and maintenance program in response to the reports provided by any such consultants.

(j) If, prior to the date hereof, it was determined that the Mortgaged Property contains Lead Based Paint, Mortgagor had prepared an assessment report describing the location and condition of the Lead Based Paint (a "Lead Based Paint Report"). If, at any time hereafter, Lead Based Paint is suspected of being present on the Mortgaged Property, Mortgagor agrees, at its sole cost and expense and within twenty (20) days thereafter, to cause to be prepared a Lead Based Paint Report prepared by an expert, and in form, scope and substance, acceptable to Mortgagee.

(k) Mortgagor agrees that if it has been, or if at any time hereafter it is, determined that the Mortgaged Property contains Lead Based Paint, on or before thirty (30) days following (i) the date hereof, if such determination was made prior to the date hereof or (ii) such determination, if such determination is hereafter made, as applicable, Mortgagor shall, at its sole cost and expenses, develop and implement, and thereafter diligently and continuously carry out (or cause to be developed and implemented and thereafter diligently and continually to be carried out), an operations, abatement and maintenance plan for the Lead Based Paint on the Mortgaged Property, which plan shall be prepared by an expert, and be in form, scope and substance, acceptable to Mortgagee (together with any Lead Based Paint Report, the "O&M Plan"). If an O&M Plan has been prepared prior to the date hereof, Mortgagor agrees to diligently and continually carry out (or cause to be carried out) the provisions thereof. Compliance with the O&M Plan shall require or be deemed to require, without limitation, the proper preparation and maintenance of all records, papers and forms required under the Environmental Laws.

## ARTICLE V. RESERVES

### 5.1 Payment Reserve.

(a) Contemporaneously with the execution hereof, Mortgagor has established with Mortgagee a reserve in the amount of one installment of the Monthly Payment and deposits for any applicable reserves or escrow accounts required under the terms of this Mortgage or the other Loan Documents as calculated by Mortgagee (the "Payment Reserve"). Mortgagor understands and agrees that, notwithstanding the establishment of the Payment Reserve as herein required, all of the proceeds of the Note have been, and shall be considered, fully disbursed and shall bear interest and be payable on the terms provided therein. No interest on funds contained in the Payment Reserve shall be paid by Mortgagee to Mortgagor.

(b) If no Event of Default has occurred hereunder or under any of the other Loan Documents and not been waived, Mortgagee shall, on the first monthly Payment Date

under the Note, advance from the Payment Reserve to itself the amount of the monthly installment due and payable by Mortgagor under the Note on such Payment Date and shall also advance from the Payment Reserve into the Impound Account the amount of any deposit for taxes and insurance premiums and into the Replacement Reserve the amount of any deposit for Replacements and into any other reserve account the amount of any deposit in accordance with the terms of any other Loan Document required to be paid by Mortgagor concurrently with such monthly installment pursuant to the terms hereof and thereof. After such disbursement of the Payment Reserve, Mortgagor shall pay the amount of each monthly installment on the applicable Payment Date and no further deposits into the Payment Reserve shall be required.

## 5.2 Replacement Reserve.

(a) As additional security for the Debt, Mortgagor shall establish and maintain at all times while this Mortgage continues in effect a capital improvement reserve (the "Replacement Reserve") with Mortgagee for payment of costs and expenses incurred by Mortgagor in connection with the performance of work which would normally be treated as a capital improvement under generally accepted accounting principles (collectively, the "Replacements"). Commencing on the first Payment Date under the Note and continuing on each Payment Date thereafter, Mortgagor shall pay to Mortgagee, in addition to the monthly payment due under the Note and until the Debt is fully paid and performed, a deposit to the Replacement Reserve in an amount equal to \$6,192.00 per month. So long as no Default or Event of Default has occurred and has not been waived, Mortgagee shall, to the extent funds are available for such purpose in the Replacement Reserve, disburse to Mortgagor the amount paid or incurred by Mortgagor in performing Replacements within ten (10) days following: (a) the receipt by Mortgagee of a written request from Mortgagor for disbursement from the Replacement Reserve and a certification by Mortgagor in a form approved in writing by Mortgagee that the applicable item of Replacement has been completed; (b) the delivery to Mortgagee of invoices, receipts or other evidence satisfactory to Mortgagee, verifying the cost of performing the Replacements; (c) for disbursement requests in excess of \$10,000, the delivery to Mortgagee of affidavits, lien waivers or other evidence reasonably satisfactory to Mortgagee showing that all parties who might or could claim statutory or common law liens and are furnishing or have furnished material or labor to the Mortgaged Property have been paid all amounts due for labor and materials furnished to the Mortgaged Property; (d) for disbursement requests in excess of \$10,000, delivery to Mortgagee of a certification from an inspecting architect or other third party acceptable to Mortgagee describing the completed Replacements and verifying the completion of the Replacements and the value of the completed Replacements; and (e) for disbursement requests in excess of \$50,000, delivery to Mortgagee of a new certificate of occupancy for the portion of the Improvements covered by such Replacements, if said new certificate of occupancy is required by law, or a certification by Mortgagor that no new certificate of occupancy is required. Mortgagee shall not be required to make advances from the Replacement Reserve more frequently than once in any ninety (90) day period. In making any payment from the Replacement Reserve, Mortgagee shall be entitled to rely on such request from Mortgagor without any inquiry into the accuracy, validity or contestability of any such amount. Mortgagee may, at Mortgagor's expense, make or cause to be made during the term

of this Mortgage an annual inspection of the Mortgaged Property to determine the need, as determined by Mortgagee in its reasonable judgment, for further Replacements of the Mortgaged Property; such inspection to be no more frequent than once in any calendar year unless a Default or an Event of Default shall have occurred and not been waived. In the event that such inspection reveals that further Replacements of the Mortgaged Property are required, Mortgagee shall provide Mortgagor with a written description of the required Replacements and Mortgagor shall complete such Replacements to the reasonable satisfaction of Mortgagee within ninety (90) days after the receipt of such description from Mortgagee, or such later date as may be approved by Mortgagee in its sole discretion.

(b) Mortgagee shall cause funds in the Replacement Reserve to be deposited into interest bearing accounts of the type customarily maintained by Mortgagee or its servicing agent for the investment of similar reserves, which accounts may not yield the highest interest rate then available. Interest payable on such amounts shall be computed based on the daily outstanding balance in the Replacement Reserve. Such interest shall be calculated on a simple, non-compounded interest basis based solely on contributions made to the Replacement Reserve by Mortgagor. All interest earned on amounts contributed to the Replacement Reserve shall be retained by Mortgagee and accumulated for the benefit of Mortgagor and added to the balance in the Replacement Reserve and shall be disbursed for payment of the items for which other funds in the Replacement Reserve are to be disbursed.

(c) As additional security for the payment and performance by Mortgagor of all duties, responsibilities and obligations under the Note, this Mortgage and the other Loan Documents, Mortgagor hereby unconditionally and irrevocably assigns and pledges to Mortgagee, and hereby grants to Mortgagee a security interest in, (i) the Impound Account, the Rent Account, the Payment Reserve, the Replacement Reserve, the Repair and Remediation Reserve and any other reserve or escrow account established pursuant to the terms hereof or of any other Loan Document (collectively, the "Reserves"), (ii) all insurance on said accounts, (iii) all accounts, contract rights and general intangibles or other rights and interests pertaining thereto, (iv) all replacements, substitutions or proceeds thereof, (v) all instruments and documents now or hereafter evidencing the Reserves or such accounts, (vi) all powers, options, rights, privileges and immunities pertaining to the Reserves (including the right to make withdrawals therefrom) and (vii) all replacements, substitutions and all proceeds of the foregoing. Mortgagor hereby authorizes and consents to each account into which the Reserves have been deposited being held in Mortgagee's name or the name of any entity servicing the loan evidenced by the Note for Mortgagee and hereby acknowledges and agrees that Mortgagee, or at Mortgagee's election, such servicing agent, shall have exclusive control over each account. Notice of the assignment and security interest granted to Mortgagee herein may be delivered by Mortgagee at any time to the financial institutions wherein the Reserves have been established, and Mortgagee, or such servicing entity, shall have possession of all passbooks or other evidences of such accounts. Mortgagor hereby assumes all risk of loss with respect to amounts on deposit in the Reserves other than any such loss resulting solely from the willful misconduct of Mortgagee as finally determined by a court of competent jurisdiction. Mortgagor hereby knowingly, voluntarily and intentionally stipulates, acknowledges and agrees that the

advancement of the funds from the Reserves as set forth herein is at Mortgagor's direction and is not the exercise by Mortgagee of any right of set-off or other remedy upon a Default or an Event of Default. Mortgagor hereby waives all right to withdraw funds from the Reserves except as provided for in this Mortgage. If an Event of Default shall occur hereunder or under any other of the Loan Documents which is not waived, Mortgagee may, without notice or demand on Mortgagor, at its option: (A) withdraw any or all of the funds (including, without limitation, interest) then remaining in the Reserves and apply the same, after deducting all costs and expenses of safekeeping, collection and delivery (including, but not limited to, reasonable attorneys' fees, costs and expenses) to the Debt or any other obligations of Mortgagor under the other Loan Documents in such manner as Mortgagee shall deem appropriate in its sole discretion, and the excess, if any, shall be paid to Mortgagor, (B) exercise any and all rights and remedies of a secured party under any applicable Uniform Commercial Code or (C) exercise any other remedies available at law or in equity. No such use or application of the funds contained in the Reserves shall be deemed to cure any Default or Event of Default.

(d) The Reserves shall not, unless otherwise explicitly required by applicable law, be or be deemed to be escrow or trust funds, but, at Mortgagee's option and in Mortgagee's discretion, may either be held in a separate account or be commingled by Mortgagee with the general funds of Mortgagee. Upon assignment of this Mortgage by Mortgagee, any funds in the Reserves shall be turned over to the assignee and any responsibility of Mortgagee, as assignor, with respect thereto shall terminate. If the funds in the applicable Reserve shall exceed the amount of payments actually applied by Mortgagee for the purposes and items for which the applicable Reserve is held, such excess may be credited by Mortgagee on subsequent payments to be made hereunder or, at the option of Mortgagee, refunded to Mortgagor. If, however, the applicable Reserve shall not contain sufficient funds to pay the sums required by the dates on which such sums are required to be on deposit in such account, Mortgagor shall, within ten (10) days after receipt of written notice thereof, deposit with Mortgagee the full amount of any such deficiency. If Mortgagor shall fail to deposit with Mortgagee the full amount of such deficiency as provided above, Mortgagee shall have the option, but not the obligation, to make such deposit.

5.3 Repair and Remediation Reserve. Prior to the execution of this Mortgage, Mortgagee has caused the Mortgaged Property to be inspected and such inspection has revealed that the Mortgaged Property is in need of certain maintenance, repairs and/or remedial or corrective work. Contemporaneously with the execution hereof, Mortgagor has established with the Mortgagee a reserve in the amount of \$0.00 (the "Repair and Remediation Reserve") by depositing such amount with Mortgagee. Mortgagor shall cause each of the items described in that certain Engineering Report (the "Engineering Report") entitled Property Condition Survey, dated July 30, 1998 and prepared by EnviroBusiness (the "Deferred Maintenance") to be completed, performed, remediated and corrected to the satisfaction of Mortgagee and as necessary to bring the Mortgaged Property into compliance with all applicable laws, ordinances, rules and regulations on or before the expiration of six (6) months after the effective date hereof, as such time period may be extended by Mortgagee in its sole discretion. So long as no Event of Default has occurred, all sums in the Repair and Remediation Reserve shall be held by

Mortgagee in the Repair and Remediation Reserve to pay the costs and expenses of completing the Deferred Maintenance. So long as no Event of Default has occurred, Mortgagee shall, to the extent funds are available for such purpose in the Repair and Remediation Reserve, disburse to Mortgagor the amount paid or incurred by Mortgagor in completing, performing, remediating or correcting the Deferred Maintenance upon (a) the receipt by Mortgagee of a written request from Mortgagor for disbursement from the Repair and Remediation Reserve and a certification by Mortgagor in a form as may be required by Mortgagee that the applicable item of Deferred Maintenance has been completed in accordance with the terms of this Mortgage, (b) delivery to Mortgagee of invoices, receipts or other evidence satisfactory to Mortgagee verifying the costs of the Deferred Maintenance to be reimbursed, (c) delivery to Mortgagee of a certification from an inspecting architect, engineer or other consultant reasonably acceptable to Mortgagee describing the completed work, verifying the completion of the work and the value of the completed work and, if applicable, certifying that the Mortgaged Property is, as a result of such work, in compliance with all applicable laws, ordinances, rules and regulations relating to the Deferred Maintenance so performed and (d) delivery to Mortgagee of affidavits, lien waivers or other evidence reasonably satisfactory to Mortgagee showing that all materialmen, laborers, subcontractors and any other parties who might or could claim statutory or common law liens and are furnishing or have furnished materials or labor to the Mortgaged Property have been paid all amounts due for such labor and materials furnished to the Mortgaged Property. Mortgagee shall not be required to make advances from the Repair and Remediation Reserve more frequently than once in any ninety (90) day period. In making any payment from the Repair and Remediation Reserve, Mortgagee shall be entitled to rely on such request from Mortgagor without any inquiry into the accuracy, validity or contestability of any such amount. No interest on the funds contained in the Repair and Remediation Reserve shall be paid by Mortgagee to Mortgagor. Mortgagor hereby grants to Mortgagee a power-of-attorney, coupled with an interest, to cause the Deferred Maintenance to be completed, performed, remediated and corrected to the satisfaction of Mortgagee upon Mortgagor's failure to do so in accordance with the terms and conditions of this Section 5.3, and to apply the amounts on deposit in the Repair and Remediation Reserve to the costs associated therewith, all as Mortgagee may determine in its sole and absolute discretion but without obligation to do so.

## ARTICLE VI. RENTS; LEASES; ALIENATION

6.1 Rents and Profits. As additional and collateral security for the payment of the Debt and cumulative of any and all rights and remedies herein provided for, Mortgagor hereby absolutely and presently assigns to Mortgagee all existing and future Rents and Profits. Mortgagor hereby grants to Mortgagee the sole, exclusive and immediate right, without taking possession of the Mortgaged Property, to demand, collect (by suit or otherwise), receive and give valid and sufficient receipts for any and all of said Rents and Profits, for which purpose Mortgagor does hereby irrevocably make, constitute and appoint Mortgagee its attorney-in-fact with full power to appoint substitutes or a trustee to accomplish such purpose. Mortgagee shall be without liability for any loss which may arise from a failure or inability to collect Rents and Profits, proceeds or other payments. However, until the occurrence of an Event of Default

under this Mortgage or under any other of the Loan Documents, Mortgagor shall have a license to collect, receive, use and enjoy the Rents and Profits when due and prepayments thereof for not more than one (1) month prior to due date thereof. The assignment of Rents and Profits hereinabove granted shall continue in full force and effect during any period of foreclosure or redemption with respect to the Mortgaged Property. Mortgagor has executed an Assignment of Leases and Rents dated of even date herewith (the "Assignment") in favor of Mortgagee covering all of the right, title and interest of Mortgagor, as landlord, lessor or licensor, in and to any Leases. All rights and remedies granted to Mortgagee under the Assignment shall be in addition to and cumulative of all rights and remedies granted to Mortgagee hereunder.

## 6.2 Leases.

(a) Mortgagor covenants and agrees that it shall not enter into any Lease without the prior written approval of Mortgagee, which approval shall not be unreasonably withheld. The request for approval of each such proposed new Lease shall be made to Mortgagee in writing and Mortgagor shall furnish to Mortgagee (and any loan servicer specified from time to time by Mortgagee): (i) such biographical and financial information about the proposed Tenant as Mortgagee may require in conjunction with its review, (ii) a copy of the proposed form of Lease and (iii) a summary of the material terms of such proposed Lease (including, without limitation, rental terms and the term of the proposed lease and any options). It is acknowledged that Mortgagee intends to include among its criteria for approval of any such proposed Lease the following: (i) such Lease shall be with a bona-fide arm's-length Tenant; (ii) the terms of such Lease shall comply with the requirements set forth in paragraphs (b) and (c) below; and (iii) such Lease shall provide that the Tenant pays for its expenses. Failure of Mortgagee to approve or disapprove any such proposed Lease within fifteen (15) business days after receipt of such written request and all the documents and information required to be furnished to Mortgagee with such request shall be deemed approved, provided that the written request for approval specifically mentioned the same.

(b) Prior to execution of any Leases of space in the Improvements after the date hereof, Mortgagor shall submit to Mortgagee, for Mortgagee's prior approval, which approval shall not be unreasonably withheld, a copy of the form Lease Mortgagor plans to use in leasing space in the Improvements or at the Mortgaged Property. All such Leases of space at the Mortgaged Property shall be at a rental and on terms consistent with the terms for similar leases in the market area of the Premises. Mortgagor shall also submit to Mortgagee for Mortgagee's approval, which approval shall not be unreasonably withheld, prior to the execution thereof, any proposed Lease of the Improvements or any portion thereof that differs materially and adversely from the aforementioned form Lease. Mortgagor shall not execute any Lease for all or a substantial portion of the Mortgaged Property, except for an actual occupancy by the Tenant, lessee or licensee thereunder, and shall at all times promptly and faithfully perform, or cause to be performed, all of the covenants, conditions and agreements contained in all Leases with respect to the Mortgaged Property, now or hereafter existing, on the part of the landlord, lessor or licensor thereunder to be kept and performed. Mortgagor shall furnish to Mortgagee, within ten (10) days after a request by Mortgagee to do so, but in any event by January 1 of

each year, a current Rent Roll, certified by Mortgagor as being true and correct, containing the names of all Tenants with respect to the Mortgaged Property, the terms of their respective Leases, the spaces occupied and the rentals or fees payable thereunder and the amount of each Tenant's security deposit. Upon the request of Mortgagee, Mortgagor shall deliver to Mortgagee a copy of each such Lease. Mortgagor shall not do or suffer to be done any act, or omit to take any action, that might result in a default by the landlord, lessor or licensor under any such Lease or allow the Tenant thereunder to withhold payment of rent or cancel or terminate same and shall not further assign any such Lease or any such Rents and Profits. Mortgagor, at no cost or expense to Mortgagee, shall enforce, short of termination, the performance and observance of each and every condition and covenant of each of the parties under such Leases and Mortgagor shall not anticipate, discount, release, waive, compromise or otherwise discharge any rent payable under any of the Leases. Mortgagor shall not, without the prior written consent of Mortgagee, modify any of the Leases, terminate or accept the surrender of any Leases, waive or release any other party from the performance or observance of any obligation or condition under such Leases. Mortgagor shall not permit the prepayment of any rents under any of the Leases for more than one (1) month prior to the due date thereof.

(c) Each Lease executed after the date hereof affecting any of the Premises or the Improvements must provide, in a manner approved by Mortgagee, that the Lease is subordinate to the lien of this Mortgage and that Tenant will recognize as its landlord, lessor or licensor, as applicable, and attorn to any person succeeding to the interest of Mortgagor upon any foreclosure of this Mortgage or deed in lieu of foreclosure. Each such Lease shall also provide that, upon request of said successor-in-interest, the Tenant shall execute and deliver an instrument or instruments confirming its attornment as provided for in this Section; provided, however, that neither Mortgagee nor any successor-in-interest shall be bound by any payment of rent for more than one (1) month in advance, or any amendment or modification of said Lease made without the express written consent of Mortgagee or said successor-in-interest.

### 6.3 Alienation and Further Encumbrances.

(a) Mortgagor acknowledges that Mortgagee has relied upon the principals of Mortgagor and their experience in owning and operating the Mortgaged Property and properties similar to the Mortgaged Property in connection with the closing of the loan evidenced by the Note. Accordingly, except as specifically allowed hereinbelow in this Section and notwithstanding anything to the contrary contained in Section 16.4 hereof, in the event that the Mortgaged Property or any part thereof or interest therein shall be sold, conveyed, disposed of, alienated, hypothecated, leased (except to Tenants of space in the Improvements in accordance with the provisions of Section 6.2 hereof), assigned, pledged, mortgaged, further encumbered or otherwise transferred or Mortgagor shall be divested of its title to the Mortgaged Property or any interest therein, in any manner or way, whether voluntarily or involuntarily, without the prior written consent of Mortgagee being first obtained, which consent may be withheld in Mortgagee's sole discretion, then the same shall constitute an Event of Default and Mortgagee shall have the right, at its option, to declare any or all of the Debt, irrespective of the maturity date specified in the Note, immediately due and payable and to otherwise exercise any of its



other rights and remedies contained in Article XV hereof. For the purposes of this Section: (i) in the event either Mortgagor or any of its general partners or members is a corporation or trust, the sale, conveyance, transfer or disposition of more than 10% (in one or more related transactions) of the issued and outstanding capital stock of Mortgagor or any of its general partners or members or of the beneficial interest of such trust (or the issuance of new shares of capital stock in Mortgagor or any of its general partners or members so that immediately after such issuance (in one or a series of transactions) the total capital stock then issued and outstanding is more than 110% of the total immediately prior to such issuance) shall be deemed to be a transfer of an interest in the Mortgaged Property; and (ii) in the event Mortgagor or any general partner or member of Mortgagor is a limited or general partnership, a joint venture or a limited liability company, a direct or indirect change in the ownership interests in Mortgagor or any general partner, any joint venturer or any member, either voluntarily, involuntarily or otherwise, or the sale, conveyance, transfer, disposition, alienation, hypothecation or encumbering of all or any portion of the interest of Mortgagor or any such general partner, joint venturer or member in Mortgagor or such general partner or member (whether in the form of a beneficial or partnership interest or in the form of a power of direction, control or management, or otherwise), shall be deemed to be a transfer of an interest in the Mortgaged Property. Notwithstanding the foregoing, however, (i) limited partnership interests in Mortgagor or in any general partner or member of Mortgagor shall be freely transferable without the consent of Mortgagee, (ii) any involuntary transfer caused by the death of any general partner, shareholder, joint venturer, or member of Mortgagor or any general partner or member of Mortgagor or beneficial owner of a trust shall not be an Event of Default under this Mortgage so long as Mortgagor is reconstituted, if required, following such death and so long as those persons responsible for the management of the Mortgaged Property and Mortgagor remain unchanged as a result of such death or any replacement management is approved by Mortgagee, and (iii) gifts for estate planning purposes of any individual's interests in Mortgagor or in any of Mortgagor's general partners, members or joint venturers to the spouse or any lineal descendant of such individual, or to a trust for the benefit of any one or more of such individual, spouse or lineal descendant, shall not be an Event of Default under this Mortgage so long as Mortgagor is reconstituted, if required, following such gift and so long as those persons responsible for the management of the Mortgaged Property and Mortgagor remain unchanged following such gift or any replacement management is approved by Mortgagee, and (iv) the sale, conveyance, or disposition of not more than forty-nine percent (49%) of equity interests in Mortgagor to an existing equity owner or the spouse or lineal descendent of such an owner shall not be an Event of Default under this Mortgage so long as Mortgagor is reconstituted, if required, following such sale, conveyance, transfer or disposition and so long as those persons responsible for the management of the Mortgaged Property remain unchanged following such sale, conveyance, transfer or disposition or any replacement management is approved by Mortgagee.

(b) Notwithstanding any other provisions of this Mortgage, nine (9) months after the date hereof, Mortgagee shall not unreasonably withhold its consent to two sales, conveyances or transfers (or any combination thereof) of the Mortgaged Property in its entirety

(hereinafter, each such sale, conveyance or transfer is referred to as a "Sale") to any person or entity, provided that each of the following terms and conditions are satisfied:

(1) No Default and no Event of Default has occurred hereunder or under any of the other Loan Documents which has not been waived;

(2) Mortgagor gives Mortgagee written notice of the terms of such prospective Sale not less than sixty (60) days before the date on which such Sale is scheduled to close and, concurrently therewith, gives Mortgagee all such information concerning the proposed transferee of the Mortgaged Property (hereinafter, "Buyer") as Mortgagee would require in evaluating an initial extension of credit to a borrower and pays to Mortgagee a non-refundable application fee in the amount of \$5,000. Mortgagee shall have the right to approve or disapprove the proposed Buyer. In determining whether to give or withhold its approval of the proposed Buyer, Mortgagee shall consider the Buyer's experience and track record in owning and operating facilities similar to the Mortgaged Property, the Buyer's financial strength, the Buyer's general business standing and the Buyer's relationships and experience with contractors, vendors, tenants, lenders and other business entities; provided, however, that, notwithstanding Mortgagee's agreement to consider the foregoing factors in determining whether to give or withhold such approval, such approval shall be given or withheld based on what Mortgagee determines to be commercially reasonable in Mortgagee's sole discretion and, if given, may be given subject to such conditions as Mortgagee may deem appropriate;

(3) Mortgagor pays Mortgagee, concurrently with the closing of such Sale, a non-refundable assumption fee in an amount equal to all out-of-pocket costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by Mortgagee in connection with the Sale, plus an amount equal to Ten Thousand Dollars (\$10,000);

(4) The Buyer executes, without any cost or expense to Mortgagee, such documents and agreements as Mortgagee shall reasonably require in connection with the Sale, including, but not limited to, an assumption agreement, financing statements, and guaranties or indemnities, all in form and substance satisfactory to Mortgagee. The Buyer shall also deliver to Mortgagee such insurance policies and other documents and certificates as the Mortgagee may require.

(c) Such Sale shall not be construed so as to relieve Mortgagor of any personal liability under the Note or any of the other Loan Documents for any acts or events occurring or obligations arising prior to or simultaneously with the closing of such Sale, whether or not same is discovered prior or subsequent to the closing of such Sale. Mortgagor shall be released from and relieved of any personal liability under the Note or any of the other Loan Documents for any acts or events occurring or obligations arising after the closing of such Sale which are not caused by or arising out of any acts or events occurring or obligations arising prior to or simultaneously with the closing of such Sale.

6.4 Easements and Rights-of-Way. Mortgagor shall not grant any easement or right-of-way with respect to all or any portion of the Premises or the Improvements without the prior written consent of Mortgagee. The purchaser at any foreclosure sale hereunder may, at its discretion, disaffirm any easement or right-of-way granted in violation of any of the provisions of this Mortgage and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such grant of easement or right-of-way. If Mortgagee consents to the grant of an easement or right-of-way, Mortgagee agrees to grant such consent without charge to Mortgagor other than expenses, including, without limitation, reasonable attorneys' fees, incurred by Mortgagee in the review of Mortgagor's request and in the preparation of documents effecting the subordination.

6.5 Optional Prepayment Date Provisions. On or before the Optional Prepayment Date, Mortgagor shall deliver to Mortgagee for delivery, at Mortgagor's expense, by certified mail, return receipt requested, to all Tenants of the Mortgaged Property an irrevocable written notice in the form attached hereto as Exhibit B directing such Tenants to pay their rent and other amounts due under their Leases to the depository under the Disbursement Agreement for deposit into the Rent Account. Additionally, each Lease executed after the Optional Prepayment Date affecting any of the Premises or Improvements must provide, in a manner approved by Mortgagee, that the Tenant is required to make all payments due to Mortgagor under the terms of such Lease to the depository of the Rent Account by check, cashiers check or money order made payable to Mortgagee or its successors or assigns. Upon the occurrence of any Event of Default under this Mortgage, Mortgagee may apply any sums then held pursuant to the Disbursement Agreement to the payment of the Debt in any order in its sole discretion. Until expended or applied, amounts held in the Rent Account pursuant to the Disbursement Agreement shall constitute additional security for the Debt. The Disbursement Agreement, when and if executed, shall be a "Loan Document" for all purposes under the Note, this Mortgage and the other Loan Documents. Mortgagor hereby irrevocably constitutes and appoints Mortgagee the attorney-in-fact of Mortgagor, coupled with an interest, to, upon Mortgagor's failure to do so in accordance with the terms hereof, without notice to Mortgagor, execute and deliver the notices to Tenants described in this Section 6.5 and to take any other action necessary or desirable in Mortgagee's judgment to carry out the intention of this Section 6.5.

## ARTICLE VII. PROPERTY MANAGEMENT

7.1 Management. The management of the Mortgaged Property shall be by either: (a) Mortgagor or an entity affiliated with Mortgagor approved by Mortgagee for so long as Mortgagor or said affiliated entity is managing the Mortgaged Property in a first class manner; or (b) a professional property management company approved by Mortgagee. Such management by an affiliated entity or a professional property management company shall be pursuant to a written agreement approved by Mortgagee. Mortgagor shall give Mortgagee prompt written notice of the occurrence of a default under any management contract then in effect. In no event shall any manager be removed or replaced or the terms of any management agreement be modified or amended without the prior written consent of Mortgagee. After an Event of Default

or a default under any management contract then in effect, which default is not cured within any applicable grace or cure period, Mortgagee shall have the right to terminate, or to direct Mortgagor to terminate, such management contract upon thirty (30) days' notice and to retain, or to direct Mortgagor to retain, a new management agent approved by Mortgagee. All Rents and Profits generated by or derived from the Mortgaged Property shall first be utilized solely for current expenses directly attributable to the ownership and operation of the Mortgaged Property, including, without limitation, current expenses relating to Mortgagor's liabilities and obligations with respect to this Mortgage and the other Loan Documents, and none of the Rents and Profits generated by or derived from the Mortgaged Property shall be diverted by Mortgagor and utilized for any other purposes unless all such current expenses attributable to the ownership and operation of the Mortgaged Property have been fully paid and satisfied.

## ARTICLE VIII. INDEMNIFICATION

### 8.1 Indemnification; Subrogation.

(a) Mortgagor shall indemnify, defend and hold Mortgagee harmless from and against: (i) any and all claims for brokerage, leasing, finders or similar fees which may be made relating to the Mortgaged Property or the Debt and (ii) any and all liability, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses (including Mortgagee's reasonable attorneys' fees and expenses) of whatever kind or nature which may be asserted against, imposed on or incurred by Mortgagee in connection with the Debt, this Mortgage and any other Loan Document, the Mortgaged Property, or any part thereof, or the exercise by Mortgagee of any rights or remedies granted to it under this Mortgage; provided, however, that nothing herein shall be construed to obligate Mortgagor to indemnify, defend and hold harmless Mortgagee from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses to the extent enacted against, imposed on or incurred by Mortgagee solely by reason of Mortgagee's willful misconduct as finally determined by a court of competent jurisdiction.

(b) Mortgagor hereby indemnifies and holds Mortgagee harmless from and against all loss, cost and expenses with respect to any Event of Default hereof, any liens (i.e., judgments, mechanics' and materialmen's liens, or otherwise), charges and encumbrances filed against the Mortgaged Property, and from any claims and demands for damages or injury, including claims for property damage, personal injury or wrongful death, arising out of or in connection with any accident or fire or other casualty on the Premises or the Improvements or any nuisance made or suffered thereon, except to the extent due solely to Mortgagee's willful misconduct as finally determined by a court of competent jurisdiction, including, without limitation, in any case, reasonable attorneys' fees, costs and expenses as aforesaid, whether at pretrial, trial or appellate level, and such indemnity shall survive payment in full of the Debt. This Section shall not be construed to require Mortgagee to incur any expenses, make any appearances or take any actions.

(c) If Mortgagee is made a party defendant to any litigation or any claim is threatened or brought against Mortgagee concerning the Debt, this Mortgage, the Mortgaged Property, or any part thereof, or any interest therein, or the construction, maintenance, operation or occupancy or use thereof, then Mortgagor shall indemnify, defend and hold Mortgagee harmless from and against all liability by reason of said litigation or claims, including reasonable attorneys' fees and expenses incurred by Mortgagee in any such litigation or claim, whether or not any such litigation or claim is prosecuted to judgment. If Mortgagee commences an action against Mortgagor to enforce any of the terms hereof or to prosecute any breach by Mortgagor of any of the terms hereof or to recover any sum secured hereby, Mortgagor shall pay to Mortgagee the reasonable attorneys' fees and expenses incurred by Mortgagee in connection therewith. The right to such attorneys' fees and expenses shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If Mortgagor breaches any term of this Mortgage or any other Loan Document, Mortgagee may engage the services of an attorney or attorneys to protect its rights hereunder, and in the event of such engagement following any breach by Mortgagor, Mortgagor shall pay Mortgagee reasonable attorneys' fees and expenses incurred by Mortgagee, whether or not an action is actually commenced against Mortgagor by reason of such breach. All references to "attorneys" in this Subsection and elsewhere in this Mortgage shall include, without limitation, any attorney or law firm engaged by Mortgagee and Mortgagee's in-house counsel, and all references to "fees and expenses" in this Subsection and elsewhere in this Mortgage shall include, without limitation, any fees of such attorney or law firm, any appellate counsel fees, if applicable, and any allocation charges and allocation costs of Mortgagee's in-house counsel.

(d) A waiver of subrogation shall be obtained by Mortgagor from its insurance carrier and, consequently, Mortgagor waives any and all right to claim or recover against Mortgagee, its officers, employees, agents and representatives, for loss of or damage to Mortgagor, the Mortgaged Property, Mortgagor's property or the property of others under Mortgagor's control from any cause insured against or required to be insured against by the provisions of this Mortgage.

## ARTICLE IX. REPORTING

9.1 Access Privileges and Inspections. Mortgagee and the agents, representatives and employees of Mortgagee shall, subject to the rights of Tenants, have full and free access to the Premises and the Improvements and any other location where books and records concerning the Mortgaged Property are kept at all reasonable times and, except in the event of an emergency, upon not less than 24 hours prior notice (which notice may be telephonic) for the purposes of inspecting the Mortgaged Property and of examining, copying and making extracts from the books and records of Mortgagor relating to the Mortgaged Property. Mortgagor shall lend assistance to all such agents, representatives and employees of Mortgagee.

9.2 Financial Statements and Books and Records. Mortgagor shall keep accurate books and records of account of the Mortgaged Property and its own financial affairs sufficient

to permit the preparation of financial statements therefrom in accordance with generally accepted accounting principles. Mortgagee and its duly authorized representatives shall have the right to examine, copy and audit Mortgagor's records and books of account at all reasonable times. So long as this Mortgage continues in effect, Mortgagor shall provide to Mortgagee, in addition to any other financial statements required hereunder or under any of the other Loan Documents, the following financial statements and information, all of which shall be in the form and substance acceptable to Mortgagee and all of which must be certified to Mortgagee as being true and correct by Mortgagor or the person or entity to which they pertain, as applicable. With respect to the financial statements and information set forth in subsection (d) hereof as it relates to Mortgagor or the Mortgaged Property, the same must be prepared by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied and, if the original principal amount of the Note is \$15,000,000 or more, be audited by such accountants:

(a) copies of all tax returns filed by Mortgagor, within thirty (30) days after the date of filing;

(b) quarterly operating statements for the Mortgaged Property, stated on a month-by-month basis including rent rolls and physical occupancy statements, within 20 days after the end of the quarter during which the closing occurs, and after the end of each March, June, September and December commencing with the first (1st) of such months to occur following the date hereof; and

(c) annual balance sheets for the Mortgaged Property and annual financial statements and federal tax returns for Mortgagor, and each general partner or managing member in Mortgagor, within ninety (90) days after the end of each calendar year;

(d) such other information with respect to the Mortgaged Property, Mortgagor, the principals or general partners in Mortgagor, and each Indemnitor, which may be reasonably requested from time to time by Mortgagee, within a reasonable time after the applicable request.

In the event of any failure of Mortgagor to provide any of the statements or other materials referred to above in this Section 9.2 on the date due, Mortgagor shall, in Mortgagee's sole and absolute discretion, be subject to a charge in the amount of One Thousand, Five Hundred and 00/100 Dollars (\$1,500.00) which amount shall be paid to Mortgagee, together with interest thereon at the Default Interest Rate from the date that the applicable statement or other material was required to be delivered to Mortgagee until the date such amount is paid to it, immediately on demand by Mortgagee. In addition, in the event of (i) any failure to provide any of the statements or other materials referred to above in this Section 9.2 within 10 days after the due date; or (ii) in the event any such statements or other materials shall be materially inaccurate or false, or (iii) in the event of the failure of Mortgagor to permit Mortgagee or its representatives to inspect said books and records upon request, an Event of Default shall automatically exist hereunder without any notice to, or right to cure by, Mortgagor.

ARTICLE X.  
WARRANTIES AND COVENANTS

10.1 Warranties of Mortgagor. Mortgagor, for itself and its successors and assigns, does hereby represent, warrant and covenant to and with Mortgagee, its successors and assigns, that:

(a) Mortgagor has good, marketable and indefeasible fee simple title to the Mortgaged Property, subject only to those matters expressly set forth as exceptions to title or subordinate matters in the title insurance policy insuring the lien of this Mortgage which Mortgagee has agreed to accept (such items being the "Permitted Encumbrances"), and has full power and lawful authority to mortgage its interest in the Mortgaged Property in the manner and form hereby done or intended. Mortgagor will preserve its interest in and title to the Mortgaged Property and will forever warrant and defend the same to Mortgagee against any and all claims whatsoever and will forever warrant and defend the validity and priority of the lien and security interest created herein against the claims of all persons and parties whomsoever, subject to the Permitted Encumbrances. The foregoing warranty of title shall survive the foreclosure of this Mortgage and shall inure to the benefit of and be enforceable by Mortgagee in the event Mortgagee acquires title to the Mortgaged Property by foreclosure or otherwise;

(b) No bankruptcy, reorganization or insolvency proceedings are pending or contemplated either by Mortgagor or, to the best knowledge of Mortgagor, against Mortgagor (or, if Mortgagor is a partnership or a limited liability company, any of its general partners or members) or by or against any endorser or cosigner of the Note or of any portion of the Debt, or any guarantor or indemnitor under any guaranty or indemnity agreement executed in connection with the Note or the loan evidenced thereby and secured hereby (an "Indemnitor");

(c) All reports, certificates, affidavits, statements and other data furnished by or on behalf of Mortgagor to Mortgagee in connection with the loan evidenced by the Note are true and correct in all material respects and do not omit to state any fact or circumstance necessary to make the statements contained therein not misleading;

(d) The execution, delivery and performance of this Mortgage, the Note and all of the other Loan Documents have been duly authorized by all necessary action to be, and are, binding and enforceable against Mortgagor in accordance with the respective terms thereof and do not (i) contravene, result in a breach of or constitute a default (nor upon the giving of notice or the passage of time or both will the same constitute a default) under the organizational documents of Mortgagor or any contract or agreement of any nature to which Mortgagor is a party or by which Mortgagor or any of its property may be bound or (ii) violate or contravene any law, order, decree, rule or regulation to which Mortgagor is subject;

(e) There are no judicial, administrative, mediation or arbitration actions, suits or proceedings pending or threatened against or affecting Mortgagor (or, if Mortgagor is a partnership or a limited liability company, any of its general partners or members) or the

Mortgaged Property which, if adversely determined, would materially impair either the Mortgaged Property or Mortgagor's ability to perform the covenants or obligations required to be performed under the Loan Documents;

(f) Mortgagor possesses all franchises, patents, copyrights, trademarks, trade names, licenses and permits (the "Licenses") necessary for the conduct of its business substantially as now conducted, all fees due and payable in connection with such Licenses have been paid and Mortgagor's operation of the Premises complies with such Licenses;

(g) Mortgagor is not a "foreign person" within the meaning of §1445(f)(3) of the Internal Revenue Code of 1986, as amended, and the related Treasury Department regulations, including temporary regulations;

(h) The Premises and the Improvements and the current intended use thereof by Mortgagor comply in all material respects with all applicable restrictive covenants, zoning ordinances, subdivision and building codes, flood disaster laws, health and environmental laws and regulations and all other ordinances, orders or requirements issued by any state, federal or municipal authorities having or claiming jurisdiction over the Mortgaged Property. The Premises and Improvements constitute one or more separate tax parcels for purposes of ad valorem taxation. The Premises and Improvements do not require any rights over, or restrictions against, other property in order to comply with any of the aforesaid governmental ordinances, orders or requirements;

(i) All utility services necessary and sufficient for the full use, occupancy, operation and disposition of the Premises and the Improvements for their intended purposes are available to the Mortgaged Property, including water, storm sewer, sanitary sewer, gas, electric, cable and telephone facilities, through public rights-of-way or perpetual private easements approved by Mortgagee;

(j) All streets, roads, highways, bridges, curb cuts, driveways and traffic signals and waterways necessary for access to and full use, occupancy, operation and disposition of the Premises and the Improvements have been completed, have been dedicated to and accepted by the appropriate municipal authority and are open and available to the Premises and the Improvements without further condition or cost to Mortgagor;

(k) The Mortgaged Property is free from delinquent water charges, sewer rents, taxes and assessments;

(l) As of the date of this Mortgage, the Mortgaged Property is free from unrepaired damage caused by fire, flood, accident or other casualty; all insurance required by the terms of this Mortgage is in full force and effect and none of the premiums payable therefor have been, nor at any time in the future will be financed;



(m) As of the date of this Mortgage, no part of the Premises or the Improvements has been taken in condemnation, eminent domain or like proceeding nor is any such proceeding pending or, to Mortgagor's knowledge and belief, threatened or contemplated;

(n) Except as may otherwise be disclosed in the Engineering Report, the Improvements are structurally sound, in good repair and free of defects in materials and workmanship. Except as may otherwise be disclosed in the Engineering Report, all major building systems located within the Improvements, including, without limitation, the heating and air conditioning systems and the electrical and plumbing systems, are in good working order and condition;

(o) Mortgagor has delivered to Mortgagee true, correct and complete copies of all Contracts and all amendments thereto or modifications thereof;

(p) Each Contract constitutes the legal, valid and binding obligation of Mortgagor and, to the best of Mortgagor's knowledge and belief, is enforceable against all other parties thereto. No default exists, or with the passing of time or the giving of notice or both would exist, under any Contract or Contracts which would, individually or in the aggregate, have a material adverse effect on Mortgagor or the Mortgaged Property;

(q) No Contract or Lease provides any party with the right to obtain a lien or encumbrance upon the Mortgaged Property superior to the lien of this Mortgage;

(r) Mortgagor and the Mortgaged Property are free from any past due obligations for sales and payroll taxes;

(s) There are no security agreements or financing statements affecting all or any portion of the Mortgaged Property other than (i) as disclosed in writing by Mortgagor to Mortgagee prior to the date hereof and (ii) the security agreements and financing statements created in favor of Mortgagee;

(t) Mortgagor has delivered a true, correct and complete schedule (the "Rent Roll") of all Leases affecting the Mortgaged Property as of the date hereof, which accurately and completely sets forth in all material respects for each such Lease the name of the Tenant, the Lease expiration date, extension and renewal provisions, the base rent payable, the security deposit held thereunder and any other material provisions of such Lease; and Mortgagor has delivered to Mortgagee true, correct and complete copies of all Leases described in the Rent Roll;

(u) Each Lease constitutes the legal, valid and binding obligation of Mortgagor and, to the best of Mortgagor's knowledge and belief, is enforceable against the Tenant thereunder. No default has been asserted or exists, or with the passing of time or the giving of notice or both would exist, under any Lease which would, in the aggregate, have a material adverse effect on Mortgagor or the Mortgaged Property;

(v) No Tenant under any Lease has, as of the date hereof, paid rent more than thirty (30) days in advance, and the rents under such Leases have not been waived, released, or otherwise discharged or compromised;

(w) All work to be performed by Mortgagor under the Leases has been substantially performed, all contributions to be made by Mortgagor to the Tenants thereunder have been made and all other conditions precedent to each such Tenant's obligations thereunder have been satisfied;

(x) Each Tenant under any Lease has entered into occupancy of the demised premises; and

(y) To the best of Mortgagor's knowledge and belief, each Tenant is free from bankruptcy, reorganization, insolvency or arrangement proceedings or a general assignment for the benefit of creditors.

10.2 Waste; Alteration of Improvements. Mortgagor shall not commit, suffer or permit any waste on the Mortgaged Property nor take or fail to take any actions that might invalidate any insurance carried on the Mortgaged Property. Mortgagor shall maintain the Mortgaged Property in good condition and repair. No part of the Improvements may be removed, demolished or materially altered, without the prior written consent of Mortgagee. Without the prior written consent of Mortgagee, Mortgagor shall not commence construction of any improvements on the Premises other than improvements required for the maintenance or repair of the Mortgaged Property.

10.3 Zoning. Without the prior written consent of Mortgagee, Mortgagor shall not make, suffer, consent to or acquiesce in any change in the zoning or conditions of use of the Premises or the Improvements. Mortgagor shall comply with and make all payments required under the provisions of any covenants, conditions or restrictions affecting the Premises or the Improvements. Mortgagor shall comply with all existing and future requirements of all governmental authorities having jurisdiction over the Mortgaged Property. Mortgagor shall keep all licenses, permits, franchises and other approvals necessary for the operation of the Mortgaged Property in full force and effect. Mortgagor shall operate the Mortgaged Property as a mobile home park for so long as the Debt is outstanding. If, under applicable zoning provisions, the use of all or any part of the Premises or the Improvements is or becomes a nonconforming use, Mortgagor shall not cause or permit such use to be discontinued or abandoned without the prior written consent of Mortgagee. Further, without Mortgagee's prior written consent, Mortgagor shall not file or subject any part of the Premises or the Improvements to any declaration of condominium or co-operative or convert any part of the Premises or the Improvements to a condominium, co-operative or other form of multiple ownership and governance.

10.4 Covenants with Respect to Indebtedness, Operations, Fundamental Changes of Mortgagor. Mortgagor hereby represents, warrants and covenants as of the date hereof and until such time as the Debt is paid in full, that Mortgagor:

(a) will not, nor will any partner, limited or general, member or shareholder thereof, as applicable, amend, modify or otherwise change its partnership certificate, partnership agreement, articles of incorporation, by-laws, operating agreement, articles of organization or other formation agreement or document, as applicable, in any material term or manner, or in a manner which adversely affects Mortgagor's existence as a single purpose entity;

(b) will not liquidate or dissolve (or suffer any liquidation or dissolution), or enter into any transaction of merger or consolidation, or acquire by purchase or otherwise all or substantially all or any part of the business or assets of, or any stock or other evidence of beneficial ownership of, or make any investment in, any entity;

(c) has not and will not guarantee, pledge its assets for the benefit of, or otherwise become liable on or in connection with, any obligation of any other person or entity;

(d) does not own and will not own any asset other than (i) the Mortgaged Property, and (ii) incidental personal property necessary for the operation of the Mortgaged Property;

(e) is not engaged and will not engage, either directly or indirectly, in any business other than the ownership, management and operation of the Mortgaged Property;

(f) will not enter into any contract or agreement with any general partner, principal, affiliate or member of Mortgagor, as applicable, or any affiliate of any general partner, principal or member of Mortgagor, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with unrelated third parties;

(g) has not incurred and will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the Debt, (ii) advances from affiliates, partners or members, as applicable, of Mortgagor, provided the same are fully subordinated to the payment in full of the Debt in a manner acceptable to Mortgagee and (iii) trade payables or accrued expenses incurred in the ordinary course of the business of operating the Mortgaged Property, and no debt other than the Debt will be secured (senior, subordinate or pari passu) by the Mortgaged Property;

(h) has not made and will not make any loans or advances to any third party (including any affiliate);

(i) is and will be solvent and pay its debts from its assets as the same shall become due;

(j) has done or caused to be done and will do all things necessary to preserve its existence, and will observe all formalities applicable to it;

(k) will conduct and operate its business in its own name and as presently conducted and operated;

(l) will maintain financial statements, books and records and bank accounts separate from those of its affiliates, including, without limitation, its general partners or members, as applicable;

(m) will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including, without limitation, any affiliate, general partner, or member, as applicable, or any affiliate of any general partner or member of Mortgagor, as applicable);

(n) will file its own tax returns;

(o) will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(p) will establish and maintain an office through which its business will be conducted separate and apart from those of its affiliates or, if it shares office space with its affiliates, shall allocate fairly and reasonably any overhead and expense for shared office space;

(q) will not commingle the funds and other assets of Mortgagor with those of any general partner, member, affiliate, principal or any other person;

(r) has and will maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or any other person;

(s) does not and will not hold itself out to be responsible for the debts or obligations of any other person;

(t) will pay any liabilities including salaries of its employees, out of its own funds and not funds of any affiliate; and

(u) will use stationery, invoices, and checks separate from its affiliates.

#### ARTICLE XI. FURTHER ASSURANCES

11.1 Defense of Title. If the title to the Mortgaged Property or the interest of Mortgagee therein shall be directly or indirectly endangered, clouded or adversely affected in any manner, Mortgagor, at Mortgagor's expense, shall take all necessary and proper steps for the defense of said title or interest, including the employment of counsel approved by

Mortgagee, the prosecution or defense of litigation, and the compromise or discharge of claims made against said title or interest. Notwithstanding the foregoing, in the event that Mortgagee determines that Mortgagor is not adequately performing its obligations under this Section, Mortgagee may, without limiting or waiving any other rights or remedies of Mortgagee hereunder, take such steps with respect thereto as Mortgagee shall deem necessary or proper and any and all costs and expenses incurred by Mortgagee in connection therewith, together with interest thereon at the Default Interest Rate from the date incurred by Mortgagee until actually paid by Mortgagor, shall be immediately paid by Mortgagor on demand and shall be secured by this Mortgage and by all of the other Loan Documents securing all or any part of the Debt.

11.2 Performance of Obligations. Mortgagor shall pay when due the principal of and the interest on the Debt in accordance with the terms of the Note and this Mortgage. Mortgagor shall also pay all charges, fees and other sums required to be paid by Mortgagor as provided in the Loan Documents, in accordance with the terms of the Loan Documents, and shall observe, perform and discharge all obligations, covenants and agreements to be observed, performed or discharged by Mortgagor set forth in the Loan Documents in accordance with their terms. Further, Mortgagor shall promptly and strictly perform and comply with all covenants, conditions, obligations and prohibitions required of Mortgagor in connection with any other document or instrument affecting title to the Mortgaged Property, or any part thereof, regardless of whether such document or instrument is superior or subordinate to this Mortgage.

11.3 Construction Liens. Mortgagor shall pay when due all claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered for the Premises or the Improvements; provided, however, that Mortgagor shall have the right to contest in good faith any such claim or demand, so long as it does so diligently, by appropriate proceedings and without prejudice to Mortgagee and provided that neither the Mortgaged Property nor any interest therein would be in any danger of sale, loss or forfeiture as a result of such proceeding or contest. In the event Mortgagor shall contest any such claim or demand, Mortgagor shall promptly notify Mortgagee of such contest and thereafter shall, upon Mortgagee's request, promptly provide a bond, cash deposit or other security satisfactory to Mortgagee to protect Mortgagee's interest and security should the contest be unsuccessful. If Mortgagor shall fail to immediately discharge or provide security against any such claim or demand as aforesaid, Mortgagee may do so and any and all expenses incurred by Mortgagee, together with interest thereon at the Default Interest Rate from the date incurred by Mortgagee until actually paid by Mortgagor, shall be immediately paid by Mortgagor on demand and shall be secured by this Mortgage and by all of the other Loan Documents securing all or any part of the Debt.

11.4 Further Documentation. Mortgagor shall, on the request of Mortgagee and at the expense of Mortgagor: (a) promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in the contents of any of the other Loan Documents; (b) promptly execute, acknowledge, deliver and record or file such further instruments (including, without limitation, further mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements and assignments of rents or

leases) and promptly do such further acts as may be necessary, desirable or proper to carry out more effectively the purposes of this Mortgage and the other Loan Documents and to subject to the liens and security interests hereof and thereof any property intended by the terms hereof and thereof to be covered hereby and thereby, including specifically, but without limitation, any renewals, additions, substitutions, replacements or appurtenances to the Mortgaged Property; (c) promptly execute, acknowledge, deliver, procure and record or file any document or instrument (including specifically, without limitation, any financing statement) deemed advisable by Mortgagee to protect, continue or perfect the liens or the security interests hereunder against the rights or interests of third persons; and (d) promptly furnish to Mortgagee, upon Mortgagee's request, a duly acknowledged written statement and estoppel certificate addressed to such party or parties as directed by Mortgagee and in form and substance supplied by Mortgagee, setting forth all amounts due under the Note, stating whether any Default or Event of Default has occurred hereunder, stating whether any offsets or defenses exist against the Debt and containing such other matters as Mortgagee may reasonably require.

11.5 Payment of Costs; Mortgagee's Right to Cure. Mortgagor shall pay all costs and expenses of every character reasonably incurred in connection with the closing of the loan evidenced by the Note and secured hereby or otherwise attributable or chargeable to Mortgagor as the owner of the Mortgaged Property, including, without limitation, appraisal fees, recording fees, documentary, stamp, mortgage or intangible taxes, brokerage fees and commissions, title policy premiums and title search fees, uniform commercial code/tax lien/litigation search fees, escrow fees and reasonable attorneys' fees and disbursements. If Mortgagor defaults in any such payment, which default is not cured within any applicable grace or cure period, Mortgagee may, at its option pay the same and Mortgagor shall reimburse Mortgagee on demand for all such costs and expenses incurred or paid by Mortgagee, together with such interest thereon at the Default Interest Rate from and after the date of Mortgagee's making such payment until reimbursement thereof by Mortgagor. Any such sums disbursed by Mortgagee, together with such interest thereon, shall be additional indebtedness of Mortgagor secured by this Mortgage and by all of the other Loan Documents securing all or any part of the Debt. Further, Mortgagor shall promptly notify Mortgagee in writing of any litigation or threatened litigation affecting the Mortgaged Property, or any other demand or claim which, if enforced, could impair or threaten to impair Mortgagee's security hereunder. Without limiting or waiving any other rights and remedies of Mortgagee hereunder, if Mortgagor fails to perform any of its covenants or agreements contained in this Mortgage or in any of the other Loan Documents and such failure is not cured within any applicable grace or cure period, or if any action or proceeding of any kind (including, but not limited to, any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding) is commenced which might affect Mortgagee's interest in the Mortgaged Property or Mortgagee's right to enforce its security, then Mortgagee may, at its option, with or without notice to Mortgagor, make any appearances, disburse any sums and take any actions as may be necessary or desirable to protect or enforce the security of this Mortgage or to remedy the failure of Mortgagor to perform its covenants and agreements (without, however, waiving any default of Mortgagor). Mortgagor agrees to pay on demand all expenses of Mortgagee incurred with respect to the foregoing (including, but not limited to, reasonable fees and disbursements of counsel), together with interest thereon at the Default

Interest Rate from and after the date on which Mortgagee incurs such expenses until reimbursement thereof by Mortgagor. Any such expenses so incurred by Mortgagee, together with interest thereon as provided above, shall be additional indebtedness of Mortgagor secured by this Mortgage and by all of the other Loan Documents securing all or any part of the Debt. The necessity for any such actions and of the amounts to be paid shall be determined by Mortgagee in its sole discretion. Mortgagee is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor. Mortgagor hereby acknowledges and agrees that the remedies set forth in this Section 11.5 shall be exercisable by Mortgagee, and any and all payments made or costs or expenses incurred by Mortgagee in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by Mortgagor with interest thereon at the Default Interest Rate, notwithstanding the fact that such remedies were exercised and such payments made and costs incurred by Mortgagee after the filing by Mortgagor of a voluntary case or the filing against Mortgagor of an involuntary case pursuant to or within the meaning of the Title 11, United States Code, as amended, or after any similar action pursuant to any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable to Mortgagor, Mortgagee, any Indemnitee, the Debt or any of the Loan Documents.

11.6 Compliance with Laws. Mortgagor shall at all times comply with all statutes, ordinances, regulations and other governmental or quasi-governmental requirements and private covenants now or hereafter relating to the ownership, construction, use or operation of the Mortgaged Property, including, but not limited to, those concerning employment and compensation of persons engaged in operation and maintenance of the Mortgaged Property and any environmental or ecological requirements, even if such compliance shall require structural changes to the Mortgaged Property; provided, however, that, Mortgagor may, upon providing Mortgagee with security satisfactory to Mortgagee, proceed diligently and in good faith to contest the validity or applicability of any such statute, ordinance, regulation or requirement so long as during such contest the Mortgaged Property shall not be subject to any lien, charge, fine or other liability and shall not be in danger of being forfeited, lost or closed. Mortgagor shall not use or occupy, or allow the use or occupancy of, the Mortgaged Property in any manner which violates any Lease of or any other agreement applicable to the Mortgaged Property or any applicable law, rule, regulation or order or which constitutes a public or private nuisance or which makes void, voidable or cancelable, or increases the premium of, any insurance then in force with respect thereto.

11.7 Attorney-in-Fact Provisions. With respect to any provision of this Mortgage or any other Loan Document whereby Mortgagor grants to Mortgagee a power-of-attorney, (i) such power shall be deemed to be coupled with an interest, shall not be revocable by Mortgagor so long as any portion of the Debt is outstanding, shall survive the voluntary or involuntary dissolution of Mortgagor and shall not be affected by any disability or incapacity suffered by Mortgagor subsequent to the date hereof and (ii) provided no Default or Event of Default has

occurred under this Mortgage, Mortgagee shall first give Mortgagor written notice at least three (3) days prior to acting under such power, which notice shall demand that Mortgagor first take the proposed action within such period and advising Mortgagor that if it fails to do so, Mortgagee will so act under the power; provided, however, that, in the event that a Default or an Event of Default has occurred and not been waived, or if necessary to prevent imminent death, serious injury, damage, loss, forfeiture or diminution in value to the Mortgaged Property or any surrounding property or to prevent any adverse affect on Mortgagee's interest in the Mortgaged Property, Mortgagee may act immediately and without first giving such notice. In such event, Mortgagee will give Mortgagor notice of such action as soon thereafter as reasonably practical.

**ARTICLE XII.**  
**PAYMENT; DEFEASANCE; PREPAYMENT**

12.1 Payment of the Notes. Mortgagor shall duly and punctually pay or cause to be paid, the principal of and the interest and premium, if any, on the Note in accordance with the respective terms hereof and thereof, without demand therefor or presentation of the Note, in lawful money of the United States of America.

12.2 Computation of Interest. Interest shall be computed hereunder and under the Note based on a 360-day year and the actual period for which interest is payable. Interest shall accrue from the date on which funds are advanced under the Note (regardless of the time of day) through and including the day on which funds are credited in accordance with the terms of the Note. Interest shall be payable hereunder and under the Note (i) at the Initial Interest Rate (as defined in the Note) until the Optional Prepayment Date and (ii) from and after the Optional Prepayment Date through and including the date the Note is paid in full, at a rate per annum equal to the Initial Interest Rate plus two (2%) percent (the "Revised Interest Rate").

12.3 Application of Payments. So long as no Event of Default exists hereunder which has not been waived, each Monthly Payment shall be applied, prior to the Optional Prepayment Date, first, to any amounts hereafter advanced by Mortgagee under any Loan Document, second, to any late fees and other amounts payable to Mortgagee, third, to the payment of accrued interest and last to reduction of principal, and from and after the Optional Prepayment Date, as provided in Section 12.6 hereof.

12.4 Prepayment.

(a) The Note may not be prepaid in whole or in part at the option of the Mortgagor except as provided in Section 12.6 below.

(b) Partial prepayments of the Note shall not be permitted, except for partial prepayments resulting from Mortgagee's election to apply insurance or condemnation proceeds to reduce the outstanding principal balance of the Note as provided in Section 3.1(b) hereof, in which event no prepayment fee or premium shall be due unless, at the time of either



Mortgagee's receipt of such proceeds or the application of such proceeds to the outstanding principal balance of the Note, an Event of Default shall have occurred and not been waived, in which case, the provisions of Section 15.2 hereof shall be controlling.

(c) If the indebtedness evidenced by the Note shall have been declared due and payable by Mortgagee pursuant to the terms thereof or the terms hereof or the provisions of any other Loan Document due to a default by Mortgagor, then there shall also then be immediately due and payable, a prepayment fee in an amount equal to the greater of (A) five percent (5%) of the then outstanding principal balance of the Note on the date of acceleration, and (B) an amount which would be sufficient to purchase securities meeting the requirements of Section 12.5(C)(2) below. In the event that any prepayment fee is due hereunder, Mortgagee shall deliver to Mortgagor a statement setting forth the amount and determination of the prepayment fee, and provided that Mortgagee shall have in good faith applied the formula described above, Mortgagor shall not have the right to challenge the calculation or the method of calculation set forth in any such statement in the absence of manifest error.

12.5 Defeasance. Notwithstanding any provision of this Mortgage to the contrary, at any time after the date which (1) is two years after the "startup day," within the meaning of Section 860G(a)(9) of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code"), of a "real estate mortgage investment conduit," ("REMIC") within the meaning of Section 860D of the Code, that holds the Note and this Mortgage or (2) five (5) years after the date hereof, whichever shall later occur, and provided no Event of Default has occurred, Mortgagor may cause the release of the Mortgaged Property from the lien of this Mortgage and the other Loan Documents upon the satisfaction of the following conditions:

(A) not less than thirty (30) days prior written notice shall be given to Mortgagee specifying a Payment Date (the "Release Date") on which the Defeasance Collateral is to be delivered;

(B) all accrued and unpaid interest and all other sums due under this Mortgage, the Note and under the other Loan Documents up to the Release Date, including, without limitation, all costs and expenses incurred by Mortgagee or its agents in connection with such release (including, without limitation, the review of the proposed Defeasance Collateral and the preparation of the Defeasance Security Agreement (as hereinafter defined) and related documentation), shall be paid in full on or prior to the Release Date; and

(C) Mortgagor shall deliver to Mortgagee on or prior to the Release Date:

(1) a pledge and security agreement, in form and substance satisfactory to Mortgagee in its sole discretion, creating a first

priority security interest in favor of Mortgagee in the Defeasance Collateral (the "Defeasance Security Agreement"), which shall provide, among other things, that any payments generated by the Defeasance Collateral shall be paid directly to Mortgagee and applied by Mortgagee in satisfaction of all amounts then due and payable hereunder and any excess received by Mortgagee from the Defeasance Collateral over the amounts payable by Mortgagor hereunder or under the Note shall be refunded to Mortgagor promptly after each Payment Date;

- (2) direct, non-callable obligations of the United States of America that provide for payments prior, but as close as possible, to all successive Payment Dates occurring after the Release Date, with each such payment being equal to or greater than the amount of the corresponding installment of principal and interest required to be paid under the Note (provided that for all purposes of this Section 12.5(C)(2), all principal, accrued interest and other amounts payable under this Mortgage, the Note and the other Loan Documents shall be due and payable in full on the Optional Prepayment Date) (the "Defeasance Collateral"), each of which shall be duly endorsed by the holder thereof as directed by Mortgagee or accompanied by a written instrument of transfer in form and substance satisfactory to Mortgagee in its sole discretion (including, without limitation, such instruments as may be required by the depository institution holding such securities or the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect upon the delivery of the Defeasance Security Agreement the first priority security interest in the Defeasance Collateral in favor of Mortgagee in conformity with all applicable state and federal laws governing granting of such security interests;
- (3) a certificate of Mortgagor certifying that all of the requirements set forth in this Section 12.5 have been satisfied;
- (4) an opinion of counsel for Mortgagor in form and substance and delivered by counsel satisfactory to Mortgagee in its sole discretion stating, among other things, that (x) Mortgagee has a perfected first priority security interest in the Defeasance Collateral and that the Defeasance Security Agreement is enforceable against Mortgagor in accordance with its terms [and (y) that any trust formed as a REMIC pursuant to a securitization will not fail to maintain its status as a REMIC as a result of such defeasance]; and

- (5) such other certificates, documents or instruments as Mortgagee may reasonably require.

Upon compliance with the requirements of this Section 12.5, the Mortgaged Property shall be released from the lien of this Mortgage and the other Loan Documents, and the Defeasance Collateral shall constitute collateral which shall secure the Note and all other obligations under the Loan Documents. Mortgagee will, at Mortgagor's expense, execute and deliver any agreements reasonably requested by Mortgagor to release the lien of the Mortgaged Instrument from the Mortgaged Property. Upon the release of the Mortgaged Property in accordance with this Section 12.5, Mortgagor may assign all its obligations and rights under the Note, together with the pledged Defeasance Collateral, to a successor entity designated by Mortgagor and approved by Mortgagee in its sole discretion. Such successor entity shall execute an assumption agreement in form and substance satisfactory to Mortgagee in its sole discretion pursuant to which it shall assume Mortgagor's obligations under the Note and the Defeasance Security Agreement. As conditions to such assignment and assumption, Mortgagor shall (x) deliver to Mortgagee an opinion of counsel in form and substance and delivered by counsel satisfactory to Mortgagee in its sole discretion stating, among other things, that such assumption agreement is enforceable against Mortgagor and such successor entity in accordance with its terms and that the Note, the Defeasance Security Agreement and the other Loan Documents, as so assumed, are enforceable against such successor entity in accordance with their respective terms, and (y) pay all costs and expenses incurred by Mortgagee or its agents in connection with such assignment and assumption (including, without limitation, the review of the proposed transferee and the preparation of the assumption agreement and related documentation). Upon such assumption, Mortgagor shall be relieved of its obligations hereunder, under the other Loan Documents and under the Defeasance Security Agreement.

#### 12.6 Optional Prepayment Date Provisions.

(a) Notwithstanding any other provision hereof to the contrary, Mortgagor shall have the right to prepay the entire principal balance of this Mortgage and any other amounts outstanding under this Note or any other Loan Documents, without premium, on or after November 1, 2008 (the "Optional Prepayment Date"). In addition, provided no Event of Default has occurred, Mortgagor may prepay the entire principal balance of this Mortgage and any other amounts outstanding under the Note or any other Loan Documents, without premium, on any Payment Date within three months prior to the Optional Prepayment Date.

(b) Except as expressly set forth in Section 12.6(g) hereof, Mortgagor hereby covenants and agrees, on or before September 1, 2008, to enter into one or more clearing and deposit agreements acceptable to Mortgagee by and among Mortgagor, Mortgagee and one or more financial institutions (which may be Mortgagee or an affiliate or subsidiary of Mortgagee) acceptable to Mortgagee (together with any modification, amendment, substitution or replacement thereof, hereinafter collectively referred to as the "Disbursement Agreement") in Mortgagee's then current form which shall provide, among other things, that, at all times from and after the Optional Prepayment Date, all Rents and Profits and other sums collected

from, or arising with respect to, the Mortgaged Property shall (i) be deposited in the deposit account (the "Rent Account") established in connection with such Disbursement Agreement, which may be an interest-bearing account, and (ii) be disbursed in accordance with Section 12.6(c) or Section 12.6(h) hereof. Mortgagor shall not have a right of withdrawal in respect to the Rent Account. Mortgagor shall pay all costs and expenses required under the Disbursement Agreement and in connection with the Rent Account and all of Mortgagee's out-of-pocket costs and expenses in connection with the preparation and negotiation of the Disbursement Agreement. Mortgagor hereby irrevocably constitutes and appoints Mortgagee the attorney-in-fact of Mortgagor, coupled with an interest, to, upon Mortgagor's failure to do so in accordance with the terms hereof, without notice to Mortgagor, execute and deliver the Disbursement Agreement and to take any other action necessary or desirable in Mortgagee's judgment to carry out the intention of this Section 12.6.

(c) Except as hereinafter set forth in subsection (g) of this Section 12.6, Mortgagor shall be obligated to pay, and Mortgagee shall collect from the Rent Account to the extent of funds on deposit in such account, on the Optional Prepayment Date and on each Payment Date thereafter the following payments in the listed order of priority:

- (i) First, to Mortgagee, the Monthly Payment;
- (ii) Second, to the Impound Account in accordance with the terms and conditions of Section 1.2;
- (iii) Third, to the Replacement Reserve in accordance with the terms and conditions of Section 5.2;
- (iv) Fourth, to the payment of monthly Cash Expenses, less management fees payable to affiliates of Mortgagor, pursuant to the terms and conditions of the related Approved Annual Budget;
- (v) Fifth, to the payment of Extraordinary Expenses approved by Mortgagee, if any;
- (vi) Sixth, to the payment of any other amounts due under the Loan Documents; and
- (vii) Seventh, to Mortgagee, the balance of the funds then on deposit in the Rent Account to be applied to the reduction of the outstanding principal balance of the Note until such principal balance is paid in full;

(viii) Eighth, to Mortgagee, the balance of funds on deposit in the Rent Account to be applied to Accrued Interest until paid in full; and

(ix) Lastly, any remainder to Mortgagor.

(d) For the calendar year in which the Optional Prepayment Date occurs and for each calendar year thereafter, Mortgagor shall submit to Mortgagee for Mortgagee's written approval an annual budget (an "Annual Budget") not later than (i) the Optional Prepayment Date for the calendar year in which the Optional Prepayment Date occurs and (ii) (60) days prior to the commencement of each calendar year thereafter, in form satisfactory to Mortgagee, setting forth in reasonable detail budgeted monthly operating income and monthly operating capital and other expenses for the Mortgaged Property. Each Annual Budget shall contain, among other things, limitations on management fees, third party service fees and other expenses as Mortgagor may reasonably determine. Mortgagee shall have the right to approve such Annual Budget and in the event that Mortgagee objects to the proposed Annual Budget submitted by Mortgagor, Mortgagee shall advise Mortgagor of such objections within fifteen (15) days after receipt thereof (and deliver to Mortgagor a reasonably detailed description of such objections) and Mortgagor shall, within three (3) days after receipt of notice of any such objections, revise such Annual Budget and resubmit the same to Mortgagee. Mortgagee shall advise Mortgagor of any objections to such revised Annual Budget within ten (10) days after receipt thereof (and deliver to Mortgagor a reasonably detailed description of such objections) and Mortgagor shall revise the same in accordance with the process described in this subsection until Mortgagee approves an Annual Budget; provided, however, that if Mortgagee shall not advise Mortgagor of its objections to any proposed Annual Budget within the applicable time period set forth in this subsection, then such proposed Annual Budget shall be deemed approved by Mortgagee. Each such Annual Budget approved by Mortgagee in accordance with terms hereof shall hereinafter be referred to as an "Approved Annual Budget." Until such time that Mortgagee approves a proposed Annual Budget, the most recently Approved Annual Budget shall apply; provided, however, that such Approved Annual Budget shall be adjusted to reflect actual increases in real estate taxes, insurance premiums and utilities expenses.

(e) In the event that Mortgagor must incur an extraordinary operating expense or capital expense not set forth in the Approved Annual Budget or allotted for in the Replacement Reserve (each, an "Extraordinary Expense"), then Mortgagor shall promptly deliver to Mortgagee a reasonably detailed explanation of such proposed Extraordinary Expense for Mortgagee's approval.

(f) For the purposes of this Section, "Cash Expenses" shall mean, for any period, the operating expenses for the operation and maintenance of the Mortgaged Property as set forth in an Approved Annual Budget to the extent that such expenses are actually incurred by Mortgagor, excluding payments into the Impound Account, the Replacement Reserve and expenses for which Mortgagor shall be reimbursed from, or which shall be paid for out of, any such account or reserve.

(g) Notwithstanding the other provisions of this Section 12.6, in the event that, prior to the Optional Prepayment Date, Mortgagor delivers to Mortgagee evidence, in form and substance satisfactory to Mortgagee in its sole determination, of Mortgagor's ability to refinance the loan evidenced by the Note prior to the Optional Prepayment Date, then, the terms of Subsections 12.6(b), (c), and (d) hereof shall be inoperative; provided, however, that upon (x) the failure of such refinancing to be consummated or (y) the occurrence of any adverse change in circumstances with respect to Mortgagor or any principal of Mortgagor, the Mortgaged Property, the proposed lender or otherwise which, in Mortgagee's reasonable judgment, significantly decreases the likelihood of such refinancing being consummated prior to the Optional Prepayment Date, the terms of Subsections 12.6(b), (c) and (d) hereof shall immediately become operative and, upon demand of Mortgagee, Mortgagor shall immediately comply with all of the terms thereof.

(h) In the event that Mortgagor chooses not to prepay the entire principal balance of the Note and any other amounts outstanding under the Note or any of the other Loan Documents on the Optional Prepayment Date, the provisions of Subsections 12.6(b), (c) and (d) as set forth above shall remain in full force and effect, and the following subsections also shall apply:

(A) From and after the Optional Prepayment Date, interest shall accrue on the unpaid principal balance from time to time outstanding under the Note at the Revised Interest Rate. Interest accrued at the Revised Interest Rate and not paid pursuant to Section 12.6(c)(i) shall be deferred and added to the principal balance of this Note and shall earn interest at the Revised Interest Rate to the extent permitted by applicable law (such accrued interest is hereinafter referred to as "Accrued Interest"). All of the unpaid principal balance of the Note, including, without limitation, any Accrued Interest, shall be due and payable on the Maturity Date.

(B) Nothing in this Section 12.6(h) shall limit, reduce or otherwise affect Mortgagor's obligations to make any payments or deposits due hereunder and under the other Loan Documents in accordance with the terms hereof or thereof, whether or not Rents and Profits are available to make such payments or deposits.

### ARTICLE XIII. SECURITY PROVISIONS

13.1 Security Interest. This Mortgage is also intended to encumber and create a security interest in, and Mortgagor hereby grants to Mortgagee a security interest in, all sums on deposit with Mortgagee pursuant to the provisions of Section 1.2, Section 5.1, Section 5.2 and Section 5.3 hereof or any other Section hereof or of any other Loan Document and all fixtures, chattels, accounts, equipment, inventory, contract rights, general intangibles and other

personal property included within the Mortgaged Property, all renewals, replacements of any of the aforementioned items, or articles in substitution therefor or in addition thereto or the proceeds thereof (said property is hereinafter referred to collectively as the "Collateral"), whether or not the same shall be attached to the Premises or the Improvements in any manner. It is hereby agreed that to the extent permitted by law, all of the foregoing property is to be deemed and held to be a part of and affixed to the Premises and the Improvements. The foregoing security interest shall also cover Mortgagor's leasehold interest in any of the foregoing property which is leased by Mortgagor. Notwithstanding the foregoing, all of the foregoing property shall be owned by Mortgagor and no leasing or installment sales or other financing or title retention agreement in connection therewith shall be permitted without the prior written approval of Mortgagee. Mortgagor shall, from time to time upon the request of Mortgagee, supply Mortgagee with a current inventory of all of the property in which Mortgagee is granted a security interest hereunder, in such detail as Mortgagee may reasonably require. Mortgagor shall promptly replace all of the Collateral subject to the lien or security interest of this Mortgage when worn or obsolete with Collateral comparable to the worn out or obsolete Collateral when new and will not, without the prior written consent of Mortgagee, remove from the Premises or the Improvements any of the Collateral subject to the lien or security interest of this Mortgage except such as is replaced by an article of equal suitability and value as above provided, owned by Mortgagor free and clear of any lien or security interest except that created by this Mortgage and the other Loan Documents. All of the Collateral shall be kept at the location of the Premises except as otherwise required by the terms of the Loan Documents. Mortgagor shall not use any of the Collateral in violation of any applicable statute, ordinance or insurance policy.

13.2 Security Agreement. This Mortgage constitutes a security agreement between Mortgagor and Mortgagee with respect to the Collateral in which Mortgagee is granted a security interest hereunder, and, cumulative of all other rights and remedies of Mortgagee hereunder, Mortgagee shall have all of the rights and remedies of a secured party under any applicable Uniform Commercial Code. Mortgagor hereby agrees to execute and deliver on demand and hereby irrevocably constitutes and appoints Mortgagee the attorney-in-fact of Mortgagor to execute and deliver and, if appropriate, to file with the appropriate filing officer or office, such security agreements, financing statements, continuation statements or other instruments as Mortgagee may request or require in order to impose, perfect or continue the perfection of the lien or security interest created hereby. To the extent specifically provided herein, Mortgagee shall have the right of possession of all cash, securities, instruments, negotiable instruments, documents, certificates and any other evidences of cash or other property or evidences of rights to cash rather than property, which are now or hereafter a part of the Mortgaged Property, and Mortgagor shall promptly deliver the same to Mortgagee, endorsed to Mortgagee, without further notice from Mortgagor. Mortgagor agrees to furnish Mortgagee in writing with notice of any change in the name, identity, organizational structure, residence, or principal place of business or mailing address of Mortgagor thirty (30) days prior to the effective date of any such change. Expenses of retaking, holding, preparing for sale, selling or the like (including, without limitation, Mortgagee's reasonable attorneys' fees and legal expenses), together with interest thereon at the Default Interest Rate from the date incurred by

Mortgagee until actually paid by Mortgagor, shall be paid by Mortgagor on demand and shall be secured by this Mortgage and by all of the other Loan Documents securing all or any part of the Debt. Mortgagee shall have the right to enter upon the Premises and the Improvements or any real property where any of the property which is the subject of the security interest granted herein is located to take possession of, assemble and collect the same or to render it unusable, or Mortgagor, upon demand of Mortgagee, shall assemble such property and make it available to Mortgagee at the Premises, or at a place which is mutually agreed upon or, if no such place is agreed upon, at a place reasonably designated by Mortgagee to be reasonably convenient to Mortgagee and Mortgagor. If notice is required by law, Mortgagee shall give Mortgagor at least ten (10) days' prior written notice of the time and place of any public sale of such property, or adjournments thereof, or of the time of or after which any private sale or any other intended disposition thereof is to be made, and if such notice is sent to Mortgagor, as the same is provided for the mailing of notices herein, it is hereby deemed that such notice shall be and is reasonable notice to Mortgagor. No such notice is necessary for any such property which is perishable, threatens to decline speedily in value or is of a type customarily sold on a recognized market. Any sale made pursuant to the provisions of this Section shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with a foreclosure sale as provided in Section 15.1(e) hereof upon giving the same notice with respect to the sale of the Mortgaged Property hereunder as is required under said Section 15.1(e).

The name and principal place of business of Mortgagor (as Debtor under any applicable Uniform Commercial Code) are:

Sandpiper Mobile Manor Associates, L.L.C.  
18700 West Ten Mile Road  
Southfield, Michigan 40875

The name and principal place of business of Mortgagee (as Secured Party) are:

TRANSATLANTIC CAPITAL COMPANY, L.L.C.  
31 West 52nd Street  
10th Floor  
New York, New York 10019

13.3 Secured Indebtedness. It is understood and agreed that this Mortgage shall secure payment of not only the indebtedness evidenced by the Note but also any and all substitutions, replacements, renewals and extensions of the Note, any and all indebtedness and obligations arising pursuant to the terms hereof and any and all indebtedness and obligations arising pursuant to the terms of any of the other Loan Documents, all of which indebtedness is equally secured with and has the same priority as any amounts advanced as of the date hereof. It is agreed that any future advances made by Mortgagee to or for the benefit of Mortgagor from time to time under this Mortgage or the other Loan Documents and whether or not such advances are obligatory or are made at the option of Mortgagee, or otherwise, made for any purpose, within



twenty (20) years from the date hereof, and all interest accruing thereon, shall be equally secured by this Mortgage and shall have the same priority as all amounts, if any, advanced as of the date hereof and shall be subject to all of the terms and provisions of this Mortgage.

ARTICLE XIV.  
DEFAULT

14.1 Events of Default. The occurrence of any of the following events shall be an "Event of Default" hereunder:

(a) Mortgagor fails to timely make payments of principal or interest as stipulated in the Note and any such payment is not made within seven (7) days of the date such payment is due (provided that no grace period is provided for the payment of principal and interest due on the Maturity Date).

(b) Mortgagor fails to provide insurance as required by Section 2.1 hereof or fails to perform any covenant, agreement, obligation, term or condition set forth in Section 4.1, Section 6.3 or Section 10.4 hereof.

(c) Mortgagor fails to perform any other covenant, agreement, obligation, term or condition set forth herein, other than those otherwise described in this Section 14.1, and, to the extent such failure or default is susceptible of being cured, the continuance of such failure or default for thirty (30) days after written notice thereof from Mortgagee to Mortgagor; provided, however, that if such default is susceptible of cure but such cure cannot be accomplished with reasonable diligence within said period of time, and if Mortgagor commences to cure such default promptly after receipt of notice thereof from Mortgagee, and thereafter prosecutes the curing of such default with reasonable diligence, such period of time shall be extended for such period of time as may be necessary to cure such default with reasonable diligence, but not to exceed an additional sixty (60) days.

(d) Any representation or warranty made herein, in or in connection with any application or commitment relating to the loan evidenced by the Note, or in any of the other Loan Documents to Mortgagee by Mortgagor, by any principal, general partner, manager or member in Mortgagor, or by any Indemnitor is determined by Mortgagee to have been false or misleading in any material respect at the time made.

(e) A default occurs under any of the other Loan Documents which has not been cured within any applicable grace or cure period therein provided.

(f) Mortgagor, any principal, general partner or managing member in Mortgagor or any Indemnitor becomes insolvent, or makes a transfer in fraud of creditors, or makes an assignment for the benefit of creditors, or files a petition in bankruptcy, or is voluntarily adjudicated insolvent or bankrupt or admits in writing the inability to pay its debts as they mature, or petitions or applies to any tribunal for or consents to or fails to contest the

appointment of a receiver, trustee, custodian or similar officer for Mortgagor, for any such principal, general partner or managing member of Mortgagor or for any Indemnitor or for a substantial part of the assets of Mortgagor, of any such principal, general partner or managing member of Mortgagor or of any Indemnitor, or commences any case, proceeding or other action under any bankruptcy, insolvency, reorganization, arrangement, receivership or other debtor relief under any law or statute of any jurisdiction, whether now or hereafter in effect.

(g) A petition is filed or any case, proceeding or other action is commenced against Mortgagor, against any principal, general partner or managing member of Mortgagor or against any Indemnitor seeking to have an order for relief entered against it as debtor or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or other relief under any law relating to bankruptcy, insolvency, arrangement, reorganization, receivership or other debtor relief under any law or statute of any jurisdiction, whether now or hereafter in effect, or a court of competent jurisdiction enters an order for relief against Mortgagor, against any principal, general partner or managing member of Mortgagor or against any Indemnitor, as debtor, or an order, judgment or decree is entered appointing, with or without the consent of Mortgagor, of any such principal, general partner or managing member of Mortgagor or of any Indemnitor, a receiver, trustee, custodian or similar officer for Mortgagor, for any such principal, general partner or managing member of Mortgagor or for any Indemnitor, or for any substantial part of any of the properties of Mortgagor, of any such principal, general partner or managing member of Mortgagor or of any Indemnitor, and if any such event shall occur, such petition, case, proceeding, action, order, judgment or decree is not dismissed within sixty (60) days after being commenced.

(h) The Mortgaged Property or any part thereof is taken on execution or other process of law in any action against Mortgagor.

(i) Mortgagor abandons all or a portion of the Mortgaged Property.

(j) The holder of any lien or security interest on the Mortgaged Property (without implying the consent of Mortgagee to the existence or creation of any such lien or security interest), whether superior or subordinate to this Mortgage or any of the other Loan Documents, declares a default and such default is not cured within any applicable grace or cure period set forth in the applicable document or such holder institutes foreclosure or other proceedings for the enforcement of its remedies thereunder.

(k) The Mortgaged Property, or any part thereof, is subjected to waste or to removal, demolition or material alteration so that the value of the Mortgaged Property is materially diminished thereby and Mortgagee determines that it is not adequately protected from any loss, damage or risk associated therewith.

(l) Any dissolution, termination, partial or complete liquidation, merger or consolidation of Mortgagor, any of its principals, any general partner or any managing member, or any Indemnitor.

ARTICLE XV.  
REMEDIES

15.1 Remedies Available. If there shall occur an Event of Default under this Mortgage, then this Mortgage is subject to foreclosure as provided by law and Mortgagee may, at its option and by or through a trustee, nominee, assignee or otherwise, to the fullest extent permitted by law, exercise any or all of the following rights, remedies and recourses, either successively or concurrently:

(a) Acceleration. Accelerate the maturity date of the Note and declare any or all of the Debt to be immediately due and payable without any presentment, demand, protest, notice or action of any kind whatever (each of which is hereby expressly waived by Mortgagor), whereupon the same shall become immediately due and payable. Upon any such acceleration, payment of such accelerated amount shall constitute a prepayment of the principal balance of the Note and any applicable prepayment fee provided for in the Note shall then be immediately due and payable.

(b) Entry on the Mortgaged Property. Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Property, or any part thereof, without force or with such force as is permitted by law and without notice or process or with such notice or process as is required by law, unless such notice and process is waivable, in which case Mortgagor hereby waives such notice and process, and do any and all acts and perform any and all work which may be desirable or necessary in Mortgagee's judgment to complete any unfinished construction on the Premises, to preserve the value, marketability or rentability of the Mortgaged Property, to increase the income therefrom, to manage and operate the Mortgaged Property or to protect the security hereof, and all sums expended by Mortgagee therefor, together with interest thereon at the Default Interest Rate, shall be immediately due and payable to Mortgagee by Mortgagor on demand and shall be secured hereby and by all of the other Loan Documents securing all or any part of the Debt.

(c) Collect Rents and Profits. With or without taking possession of the Mortgaged Property, sue or otherwise collect the Rents and Profits, including those past due and unpaid.

(d) Appointment of Receiver. Upon, or at any time prior or after, initiating the exercise of any power of sale, instituting any judicial foreclosure or instituting any other foreclosure of the liens and security interests provided for herein or any other legal proceedings hereunder, make application to a court of competent jurisdiction for appointment of a receiver for all or any part of the Mortgaged Property, as a matter of strict right and without notice to Mortgagor and without regard to the adequacy of the Mortgaged Property for the repayment of the Debt or the solvency of Mortgagor or any person or persons liable for the payment of the Debt, and Mortgagor does hereby irrevocably consent to such appointment, waive any and all notices of and defenses to such appointment and agree not to oppose any application therefor by

Mortgagee, but nothing herein is to be construed to deprive Mortgagee of any other right, remedy or privilege Mortgagee may now have under the law to have a receiver appointed, provided, however, that the appointment of such receiver, trustee or other appointee by virtue of any court order, statute or regulation shall not impair or in any manner prejudice the rights of Mortgagee to receive payment of the Rents and Profits pursuant to other terms and provisions hereof. Any such receiver shall have all of the usual powers and duties of receivers in similar cases, including, without limitation, the full power to hold, develop, rent, lease, manage, maintain, operate and otherwise use or permit the use of the Mortgaged Property upon such terms and conditions as said receiver may deem to be prudent and reasonable under the circumstances as more fully set forth in Section 15.3 below. Such receivership shall, at the option of Mortgagee, continue until full payment of all of the Debt or until title to the Mortgaged Property shall have passed by foreclosure sale under this Mortgage or deed in lieu of foreclosure.

(e) Foreclosure. Immediately commence an action to foreclose this Mortgage or to specifically enforce its provisions with respect to any of the Debt, pursuant to the statutes in such case made and provided, and sell the Mortgaged Property or cause the Mortgaged Property to be sold in accordance with the requirements and procedures provided by said statutes in a single parcel or in several parcels at the option of Mortgagee. In the event foreclosure proceedings are instituted by Mortgagee, all expenses incident to such proceedings, including, but not limited to, reasonable attorneys' fees and costs, shall be paid by Mortgagor and secured by this Mortgage and by all of the other Loan Documents securing all or any part of the Debt. The Debt and all other obligations secured by this Mortgage, including, without limitation, interest at the Default Interest Rate any prepayment charge, fee or premium required to be paid under the Note in order to prepay principal (to the extent permitted by applicable law), reasonable attorneys' fees and any other amounts due and unpaid to Mortgagee under the Loan Documents, may be bid by Mortgagee in the event of a foreclosure sale hereunder. In the event of a judicial sale pursuant to a foreclosure decree, it is understood and agreed that Mortgagee or its assigns may become the purchaser of the Mortgaged Property or any part thereof.

(f) Judicial Remedies. Proceed by suit or suits, at law or in equity, instituted by or on behalf of Mortgagee, to enforce the payment of the Debt or the other obligations of Mortgagor hereunder or pursuant to the Loan Documents, to foreclose the liens and security interests of this Mortgage as against all or any part of the Mortgaged Property, and to have all or any part of the Mortgaged Property sold under the judgment or decree of a court of competent jurisdiction. This remedy shall be cumulative of any other non-judicial remedies available to Mortgagee with respect to the Loan Documents. Proceeding with the request or receiving a judgment for legal relief shall not be or be deemed to be an election of remedies or bar any available non-judicial remedy of Mortgagee.

(g) Other. Exercise any other right or remedy available hereunder, under any of the other Loan Documents or at law or in equity.

15.2 Application of Proceeds. To the fullest extent permitted by law, the proceeds of any sale under this Mortgage shall be applied, to the extent funds are so available, to the following items in such order as Mortgagee in its discretion may determine:

(a) To payment of the reasonable costs, expenses and fees of taking possession of the Mortgaged Property, and of holding, operating, maintaining, using, leasing, repairing, improving, marketing and selling the same and of otherwise enforcing Mortgagee's rights and remedies hereunder and under the other Loan Documents, including, but not limited to, receivers' fees, court costs, attorneys', accountants', appraisers', managers' and other professional fees, title charges and transfer taxes.

(b) To payment of all sums expended by Mortgagee under the terms of any of the Loan Documents and not yet repaid, together with interest on such sums at the Default Interest Rate.

(c) To payment of the Debt and all other obligations secured by this Mortgage, including, without limitation, interest at the Default Interest Rate and, to the extent permitted by applicable law, any prepayment fee, charge or premium required to be paid under the Note in order to prepay principal, in any order that Mortgagee chooses in its sole discretion.

(d) The remainder, if any, of such funds shall be disbursed to Mortgagor or to the person or persons legally entitled thereto.

15.3 Right and Authority of Receiver or Mortgagee in the Event of Default; Power of Attorney. Upon the occurrence of an Event of Default, and entry upon the Mortgaged Property pursuant to Section 15.1(b) hereof or appointment of a receiver pursuant to Section 15.1(d) hereof, and under such terms and conditions as may be prudent and reasonable under the circumstances in Mortgagee's or the receiver's sole discretion, all at Mortgagor's expense, Mortgagee or said receiver, or such other persons or entities as they shall hire, direct or engage, as the case may be, may do or permit one or more of the following, successively or concurrently: (a) enter upon and take possession and control of any and all of the Mortgaged Property; (b) take and maintain possession of all documents, books, records, papers and accounts relating to the Mortgaged Property; (c) exclude Mortgagor and its agents, servants and employees wholly from the Mortgaged Property; (d) manage and operate the Mortgaged Property; (e) preserve and maintain the Mortgaged Property; (f) make repairs and alterations to the Mortgaged Property; (g) complete any construction or repair of the Improvements, with such changes, additions or modifications of the plans and specifications or intended disposition and use of the Improvements as Mortgagee may in its sole discretion deem appropriate or desirable to place the Mortgaged Property in such condition as will, in Mortgagee's sole discretion, make it or any part thereof readily marketable or rentable; (h) conduct a marketing or leasing program with respect to the Mortgaged Property, or employ a marketing or leasing agent or agents to do so, directed to the leasing or sale of the Mortgaged Property under such terms and conditions as Mortgagee may in its sole discretion deem appropriate or desirable; (i) employ such contractors, subcontractors, materialmen, architects, engineers, consultants, managers, brokers,

marketing agents, or other employees, agents, independent contractors or professionals, as Mortgagee may in its sole discretion deem appropriate or desirable to implement and effectuate the rights and powers granted herein and in the other Loan Documents; (j) execute and deliver, in the name of Mortgagee as attorney-in-fact and agent of Mortgagor or in its own name as Mortgagee, such documents and instruments as are necessary or appropriate to consummate authorized transactions; (k) enter into such leases, whether of real or personal property, or tenancy agreements, under such terms and conditions as Mortgagee may in its sole discretion deem appropriate or desirable; (l) collect and receive the Rents and Profits from the Mortgaged Property; (m) eject tenants or repossess personal property, as provided by law, for breaches of the conditions of their leases or other agreements; (n) sue for unpaid Rents and Profits, payments, income or proceeds in the name of Mortgagor or Mortgagee; (o) maintain actions in forcible entry and detainer, ejectment for possession and actions in distress for rent; (p) compromise or give acquittance for Rents and Profits, payments, income or proceeds that may become due; (q) delegate or assign any and all rights and powers given to Mortgagee by this Mortgage; and (r) do any acts which Mortgagee or the receiver in its sole discretion deems appropriate or desirable to protect the security hereof and use such measures, legal or equitable, as Mortgagee or the receiver may in its sole discretion deem appropriate or desirable to implement and effectuate the provisions of this Mortgage. This Mortgage shall constitute a direction to and full authority to any Tenant, or other third party who has heretofore dealt or contracted or may hereafter deal or contract with Mortgagor or Mortgagee, at the request of Mortgagee, to pay all amounts owing under any lease, contract, concession, license or other agreement to Mortgagee without proof of the Event of Default relied upon. Any such Tenant or third party is hereby irrevocably authorized to rely upon and comply with (and shall be fully protected by Mortgagor in so doing) any request, notice or demand by Mortgagee for the payment to Mortgagee of any Rents and Profits or other sums which may be or thereafter become due under its lease, contract, concession, license or other agreement, or for the performance of any undertakings under any such lease, contract, concession, license or other agreement, and shall have no right or duty to inquire whether any Event of Default under this Mortgage or under any of the other Loan Documents has actually occurred or is then existing. Mortgagor hereby irrevocably constitutes and appoints Mortgagee, its assignees, successors, transferees and nominees, as Mortgagor's true and lawful attorney-in-fact and agent, with full power of substitution in the Mortgaged Property, in Mortgagor's name, place and stead, to do or permit any one or more of the foregoing described rights, remedies, powers and authorities, successively or concurrently. Any money advanced by Mortgagee in connection with any action taken under this Section 15.3, together with interest thereon at the Default Interest Rate from the date of making such advancement by Mortgagee until actually paid by Mortgagor, shall be a demand obligation owing by Mortgagor to Mortgagee and shall be secured by this Mortgage and by every other instrument securing all or any portion of the Debt.

15.4 Occupancy After Foreclosure. In the event there is a foreclosure sale hereunder and at the time of such sale, Mortgagor or Mortgagor's representatives, successors or assigns, or any other persons claiming any interest in the Mortgaged Property by, through or under Mortgagor (except Tenants under Leases entered into prior to the date hereof), are occupying or using the Mortgaged Property, or any part thereof, then, to the extent not prohibited by

applicable law, each and all shall, at the option of Mortgagee or the purchaser at such sale, as the case may be, immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day-to-day, terminable at the will of either landlord or tenant, at a reasonable rental per day based upon the higher of either (i) any rate provided in a lease then in effect with Mortgagor or, if none exists, then (ii) the value of the Mortgaged Property occupied or used, such rental to be due daily to the purchaser. Further, to the extent permitted by applicable law, in the event the tenant fails to surrender possession of the Mortgaged Property upon the termination of such tenancy, the purchaser shall be entitled to institute and maintain an action for unlawful detainer of the Mortgaged Property in the appropriate court of the county in which the Premises is located.

15.5 Notice to Account Debtors. Mortgagee may, at any time after an Event of Default, notify the account debtors and obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness to Mortgagor included in the Mortgaged Property to pay Mortgagee directly. Mortgagor shall at any time or from time to time upon the request of Mortgagee provide to Mortgagee a current list of all such account debtors and obligors and their addresses.

15.6 Cumulative Remedies. All remedies contained in this Mortgage are cumulative and Mortgagee shall also have all other remedies provided at law and in equity or in any other Loan Documents. Such remedies may be pursued separately, successively or concurrently at the sole subjective direction of Mortgagee and may be exercised in any order and as often as occasion therefor shall arise.

15.7 Payment of Expenses. Mortgagor shall pay on demand all of Mortgagee's expenses incurred in any efforts to enforce any terms of this Mortgage, whether or not any lawsuit is filed and whether or not foreclosure is commenced but not completed, including, but not limited to, reasonable legal fees and disbursements, foreclosure costs and title charges, together with interest thereon from and after the date incurred by Mortgagee until actually paid by Mortgagor at the Default Interest Rate, and the same shall be secured by this Mortgage and by all of the other Loan Documents securing all or any part of the Debt.

15.8 Mortgagor's Waivers. To the full extent permitted by law, Mortgagor agrees that Mortgagor shall not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisalment, valuation, stay, moratorium or extension, or any law now or hereafter in force providing for the reinstatement of the Debt prior to any sale of the Mortgaged Property to be made pursuant to any provisions contained herein or prior to the entering of any decree, judgment or order of any court of competent jurisdiction, or any right under any statute to redeem all or any part of the Mortgaged Property so sold. Mortgagor, for Mortgagor and Mortgagor's successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, to the full extent permitted by law, hereby knowingly, intentionally and voluntarily, with and upon the advice of competent counsel: (a) waives, releases, relinquishes and forever forgoes all rights of valuation, appraisalment, stay of

execution, reinstatement and notice of election or intention to mature or declare due the Debt (except such notices as are specifically provided for herein); (b) waives, releases, relinquishes and forever forgoes all right to a marshaling of the assets of Mortgagor, including the Mortgaged Property, to a sale in the inverse order of alienation, or to direct the order in which any of the Mortgaged Property shall be sold in the event of foreclosure of the liens and security interests hereby created and agrees that any court having jurisdiction to foreclose such liens and security interests may order the Mortgaged Property sold as an entirety; and (c) waives, releases, relinquishes and forever forgoes all rights and periods of redemption provided under applicable law. To the full extent permitted by law, Mortgagor shall not have or assert any right under any statute or rule of law pertaining to the exemption of homestead or other exemption under any federal, state or local law now or hereafter in effect, the administration of estates of decedents or other matters whatever to defeat, reduce or affect the right of Mortgagee under the terms of this Mortgage to a sale of the Mortgaged Property, for the collection of the Debt without any prior or different resort for collection, or the right of Mortgagee under the terms of this Mortgage to the payment of the Debt out of the proceeds of sale of the Mortgaged Property in preference to every other claimant whatever. Furthermore, Mortgagor hereby knowingly, intentionally and voluntarily, with and upon the advice of competent counsel, waives, releases, relinquishes and forever forgoes all present and future statutes of limitations as a defense to any action to enforce the provisions of this Mortgage or to collect any of the Debt to the fullest extent permitted by law. Mortgagor covenants and agrees that upon the commencement of a voluntary or involuntary bankruptcy proceeding by or against Mortgagor, Mortgagor shall not seek a supplemental stay or otherwise shall not seek pursuant to 11 U.S.C. §105 or any other provision of Title II, United State Code, as amended, or any other debtor relief law (whether statutory, common law, case law, or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, to stay, interdict, condition, reduce or inhibit the ability of Mortgagee to enforce any rights of Mortgagee against any guarantor or indemnitor of the secured obligations or any other party liable with respect thereto by virtue of any indemnity, guaranty or otherwise.

15.9 Submission to Jurisdiction; Waiver of Jury Trial.

(a) MORTGAGOR, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (i) SUBMITS TO PERSONAL JURISDICTION IN THE STATE IN WHICH THE PREMISES IS LOCATED OVER ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON ARISING FROM OR RELATING TO THE NOTE, THIS MORTGAGE OR ANY OTHER OF THE LOAN DOCUMENTS, (ii) AGREES THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION SITTING IN THE COUNTY IN WHICH THE PREMISES IS LOCATED, (iii) SUBMITS TO THE JURISDICTION OF SUCH COURTS, AND (iv) TO THE FULLEST EXTENT PERMITTED BY LAW, AGREES THAT IT WILL NOT BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM (BUT NOTHING HEREIN SHALL AFFECT THE RIGHT OF MORTGAGEE TO BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM).



(b) EACH OF MORTGAGOR AND MORTGAGEE BY ITS ACCEPTANCE OF THIS MORTGAGE, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THE DEBT OR ANY CONDUCT, ACT OR OMISSION OF MORTGAGEE OR MORTGAGOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH MORTGAGEE OR MORTGAGOR, IN EACH OR THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. MORTGAGOR HEREBY CONSENTS AND AGREES TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING ARISING FROM OR RELATING TO THE NOTE, THIS MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID TO MORTGAGOR AT THE ADDRESS FOR NOTICES DESCRIBED HEREINABOVE.

ARTICLE XVI.  
MISCELLANEOUS TERMS AND CONDITIONS

16.1 Time of Essence. Time is of the essence with respect to all provisions of this Mortgage.

16.2 Release of Mortgage. If all of the Debt be paid, then and in that event only, all rights under this Mortgage, except for those provisions hereof which by their terms survive, shall terminate and the Mortgaged Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, which shall be promptly released of record by Mortgagee in due form at Mortgagor's cost.

16.3 Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in person to the intended addressee, or by depositing the same with Federal Express or another reputable private courier service for next business day delivery, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, in any event addressed to the intended addressee at its address set forth on the first page of this Mortgage or at such other address as may be designated by such party as herein provided. All notices, demands and requests shall be effective upon such personal delivery, or one (1) business day after being deposited with the private courier service, or three (3) business days after being deposited in the United States mail as required above. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as herein required shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto at least fifteen (15) days' prior written notice thereof in accordance with the provisions hereof, the parties hereto

shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

16.4 Successors and Assigns; Joint and Several Liability. The terms, provisions, indemnities, covenants and conditions hereof shall be binding upon Mortgagor and the successors and assigns of Mortgagor, including all successors in interest of Mortgagor in and to all or any part of the Mortgaged Property, and shall inure to the benefit of Mortgagee, its directors, officers, shareholders, employees and agents and their respective successors and assigns and shall constitute covenants running with the land. The term "Mortgagee" as used herein shall also mean and refer to any lawful holder or owner, including pledgees and participants, of any of the Debt. If more than one person or entity is the "Mortgagor" hereunder, each is jointly and severally liable to perform the obligations of Mortgagor hereunder and all representations, warranties, covenants and agreements made by Mortgagor hereunder are joint and several.

16.5 Severability. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

16.6 Gender. Within this Mortgage, words of any gender shall be held and construed to include any other gender, and words in the singular shall be held and construed to include the plural, and vice versa, unless the context otherwise requires.

16.7 Waiver; Discontinuance of Proceedings. Mortgagee may waive any single Event of Default by Mortgagor hereunder without waiving any other prior or subsequent Event of Default. No waiver of an Event of Default shall be valid for any purpose hereunder unless given in writing by Mortgagee. Mortgagee may cure any Event of Default by Mortgagor hereunder without waiving the Event of Default remedied. Neither the failure by Mortgagee to exercise, nor the delay by Mortgagee in exercising, any right, power or remedy upon any Event of Default by Mortgagor hereunder shall be construed as a waiver of such Event of Default or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise by Mortgagee of any right, power or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No modification or waiver of any provision hereof nor consent to any departure by Mortgagor therefrom shall in any event be effective unless the same shall be in writing and signed by Mortgagee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose given. No notice to nor demand on Mortgagor in any case shall of itself entitle Mortgagor to any other or further notice or demand in similar or other circumstances. Acceptance by Mortgagee of any payment in an amount less than the amount then due on any of the Debt shall be deemed an acceptance on account only and shall not in any way affect the existence of an Event of Default. In case Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted hereunder or under the other Loan Documents and shall thereafter elect to discontinue or

abandon the same for any reason, Mortgagee shall have the unqualified right to do so and, in such an event, Mortgagor and Mortgagee shall be restored to their former positions with respect to the Debt, the Loan Documents, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Mortgagee shall continue as if the same had never been invoked.

16.8 Section Headings. The headings of the sections and paragraphs of this Mortgage are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.

16.9 Governing Law. THIS MORTGAGE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE PREMISES IS LOCATED WITHOUT REGARD TO ITS CONFLICTS OF LAWS RULES.

16.10 Counting of Days. The term "days" when used herein shall mean calendar days. If any time period ends on a Saturday, Sunday or holiday officially recognized by the state within which the Premises is located, the period shall be deemed to end on the next succeeding business day. The term "business day" when used herein shall mean a weekday, Monday through Friday, except a legal holiday or a day on which banking institutions in the state in which the Premises are located and in New York, New York are authorized by law to be closed.

16.11 Relationship of the Parties. The relationship between Mortgagor and Mortgagee is that of a borrower and a lender only and neither of those parties is, nor shall it hold itself out to be, the agent, employee, joint venturer or partner of the other party.

16.12 Unsecured Portion of Indebtedness. If any part of the Debt cannot be lawfully secured by this Mortgage or if any part of the Mortgaged Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is unsecured by this Mortgage.

16.13 Cross Default. An Event of Default hereunder shall be a default under each of the other Loan Documents.

16.14 Inconsistency with Other Loan Documents. In the event of any inconsistency between the provisions hereof and the provisions in any of the other Loan Documents, it is intended that the provisions of the Note shall control over the provisions of this Mortgage, and that the provisions of this Mortgage shall control over the provisions of the Assignment of Leases and Rents and Profits, the Environmental Indemnity Agreement and the other Loan Documents.

16.15 No Merger. It is the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Mortgaged Property.

16.16 Rights With Respect to Junior Encumbrances. Without implying that any person or entity has the right to do so, any person or entity purporting to have or to take a junior mortgage or other lien upon the Mortgaged Property or any interest therein shall be subject to the rights of Mortgagee to amend, modify, increase, vary, alter or supplement this Mortgage, the Note or any of the other Loan Documents, and to extend the maturity date of the Debt, and to increase the amount of the Debt, and to waive or forebear the exercise of any of its rights and remedies hereunder or under any of the other Loan Documents and to release any collateral or security for the Debt, in each and every case without obtaining the consent of the holder of such junior lien and without the lien or security interest of this Mortgage losing its priority over the rights of any such junior lien.

16.17 Mortgagee May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor or the principals, general partners or managing members in Mortgagor, or their respective creditors or property, Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Mortgagee allowed in such proceedings for the entire Debt at the date of the institution of such proceedings and for any additional amount which may become due and payable by Mortgagor hereunder after such date.

16.18 Fixture Filing. This Mortgage shall be effective from the date of its recording as a financing statement filed as a fixture filing with respect to all goods constituting part of the Mortgaged Property which are or are to become fixtures. This Mortgage shall also be effective as a financing statement covering minerals or the like (including oil and gas) and is to be filed for record in the real estate records of the county where the Premises is situated.

16.19 Counterparts. This Mortgage may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if the signatory(s) hereto had signed the same signature page.

16.20 Recording and Filing. Mortgagor will cause the Loan Documents and all amendments and supplements thereto and substitutions therefor to be recorded, filed, re-recorded and re-filed in such manner and in such places as Mortgagee shall reasonably request, and will pay on demand all such recording, filing, re-recording and re-filing taxes, fees and other charges. Mortgagor shall reimburse Mortgagee, or its servicing agent, for the costs incurred in obtaining a tax service company to verify the status of payment of taxes and assessments on the Mortgaged Property.

16.21 Entire Agreement and Modifications. This Mortgage and the other Loan Documents contain the entire agreements between the parties relating to the subject matter hereof and thereof and all prior agreements relative hereto and thereto which are not contained herein or therein are terminated. This Mortgage and the other Loan Documents may not be amended, revised, waived, discharged, released or terminated orally but only by a written instrument or

instruments executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is asserted.

16.22 Maximum Interest. The provisions of this Mortgage and of all agreements between Mortgagor and Mortgagee, whether now existing or hereafter arising and whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of demand or acceleration of the maturity of the Note or otherwise, shall the amount paid, or agreed to be paid ("Interest") to Mortgagee for the use, forbearance or retention of the money loaned under the Note exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, performance or fulfillment of any provision hereof or of any agreement between Mortgagor and Mortgagee shall, at the time performance or fulfillment of such provision shall be due, exceed the limit for Interest prescribed by law or otherwise transcend the limit of validity prescribed by applicable law, then, ipso facto, the obligation to be performed or fulfilled shall be reduced to such limit, and if, from any circumstance whatsoever, Mortgagee shall ever receive anything of value deemed Interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive Interest shall be applied to the reduction of the principal balance owing under the Note in the inverse order of its maturity (whether or not then due) or, at the option of Mortgagee, be paid over to Mortgagor, and not to the payment of Interest. All Interest (including any amounts or payments deemed to be Interest) paid or agreed to be paid to Mortgagee shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full period until payment in full of the principal balance of the Note so that the Interest thereon for such full period will not exceed the maximum amount permitted by applicable law. This Section will control all agreements between Mortgagor and Mortgagee.

16.23 Certain Matters Relating to Mortgaged Property Located in the State of Florida. With respect to the Mortgaged Property which is located in the State of Florida, notwithstanding anything contained herein to the contrary:

(a) Maturity Date. As provided in the Note, and if not earlier paid as required or permitted pursuant to the terms of the Note or this Mortgage, payments of principal and interest shall be paid in installments on the date of the Note, on each Payment Date (as that term is defined in the Note), and on the first day of November, 2028 (the "Maturity Date"), at which time the balance of all principal and all accrued by unpaid interest shall be due and payable.

(b) Future Advances. Section 13.3 hereof is hereby amended by the addition of the following:

All future advances made hereunder shall be included within the term "Debt", shall be secured to the same extent as if made on the date of the execution of this Mortgage, and shall take priority as to third persons without actual notice from the time this Mortgage is filed for record as provided by law. The total amount of indebtedness secured by this Mortgage may decrease or increase

from time to time, but the total unpaid balance so secured at any one time shall not exceed the maximum principal amount of \$4,000,000.00 (if no amount is inserted in the foregoing blank space, then the maximum principal amount shall be twice the original principal amount evidenced by the Note), plus interest at the Note Rate and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property, with interest at the Note Rate on those disbursements, plus any increase in the principal balance as the result of negative amortization or deferred interest. Without the prior written consent of Mortgagee, which Mortgagee may grant or withhold in its sole discretion, Mortgagor shall not file for record any notice limiting the maximum principal amount that may be secured by this Mortgage to a sum less than the maximum principal amount set forth in this paragraph."

(c) Non-Homestead Property. Mortgagor hereby warrants and represents that the Mortgaged Property is not homestead property and is used specifically for commercial uses and purposes.

(d) Certain State Determinations. If at any time the State of Florida shall determine that the intangible tax paid in connection with this Mortgage is insufficient or that the documentary stamps affixed hereto are insufficient, and that additional intangible tax should be paid or that additional stamps should be affixed, then Mortgagor shall pay for the same, together with any interest or penalties imposed in connection with, pursuant to, or as a result of such determination, and Mortgagor hereby agrees to indemnify and hold Mortgagee harmless therefrom. If any such sums shall be advanced by Mortgagee, they shall bear interest at the Default Interest Rate, shall constitute a part of the Debt, shall be paid upon demand and shall be secured by this Mortgage.

(e) Assignment of Leases and Rents. The last word of the first sentence of Section 6.1 hereof is deleted, and the following is hereby inserted in lieu thereof:

Profits, which assignment is made pursuant to Florida Statutes Section 697.07 and any amendments or successors thereto.

(f) Fees and Expenses. In addition to the provisions of Section 15.7 hereof, Mortgagor shall pay any and all costs, expenses, and attorney's fees incurred by Mortgagee (regardless of whether in connection with any action, proceeding or appeal) to sustain the lien of this Mortgage or its priority, to protect or enforce any of Mortgagee's rights under this Mortgage or under any other Loan Document, to recover any indebtedness secured hereby, or for any title examination or abstract preparation or appraisal or title insurance policy relating to the Mortgaged Property, and all such sums shall be additional Debt secured hereby, shall be payable upon demand and shall bear interest at the Default Interest Rate until paid.

(g) Cash Collateral. The term "cash" as used herein to describe part of the Mortgaged Property, shall include, without limitation, "cash in the till", cash on hand, cash equivalents, advance deposits, and credit card charges.

(h) Mortgagor to Provide Notice. In accordance with the provisions of Section 713.10 of the Florida Statutes, Mortgagor shall provide in all leases that the interest of Mortgagor thereunder shall not be subject to the lien for improvements made by the lessees and Mortgagor shall record in the public records of the county in which the Mortgaged Property is located the notice described in subsection (2) of said Section 713.10.

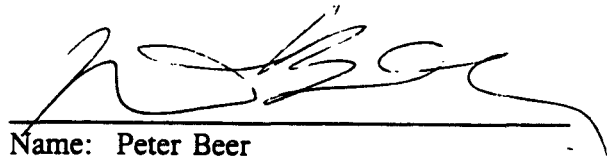
**[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage on the day and year first written above.

MORTGAGOR:

SANDPIPER MOBILE MANOR ASSOCIATES,  
L.L.C., a Michigan limited liability company

By:

A handwritten signature in black ink, appearing to read "Peter Beer", is written over a solid horizontal line.

Name: Peter Beer

Title: Managing Member



STATE OF MICHIGAN )  
 )  
COUNTY OF WASHTENAW )

The foregoing instrument was acknowledged before me this 22 day of October, 1998 by Peter Beer, Managing Member of Sandpiper Mobile Manor Associates, L.L.C., on behalf of said limited liability company.

[SEAL]

DIANE GILBERT  
Notary Public

My Commission Expires: 01/10/01

DIANE  
NOTARY PUBLIC - OAKLAND COUNTY, MI  
MY COMMISSION EXPIRES 01/10/01

DIANE GILBERT  
NOTARY PUBLIC - OAKLAND COUNTY, MI  
MY COMMISSION EXPIRES 01/10/01

EXHIBIT A

Legal Description

Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shoreline of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida

EXHIBIT B  
FORM OF TENANT NOTICE

[Letterhead of Landlord]

[Name and Address of Tenant]

Re: [Name of Property, Unit No. \_\_\_\_\_]

Dear Tenant:

You are hereby directed to make all future payments of rent and other sums due to the landlord under the Lease payable as follows:

Payable To: [Name of Lock-Box Account]

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please take particular care in making the check payable only to the above-mentioned name because only checks made payable to the referenced name will be credited against sums due by you to landlord. Until otherwise advised in writing by landlord and [Servicer] or any successor or assign of [Servicer] identified as such by [Servicer], you should continue to make your payments for rent and other sums as directed by the terms of this letter.

Thank you in advance for your cooperation with this change in payment procedures.

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

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**RECORDED DOCUMENT  
NOT YET RECEIVED**

SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.

as Assignor

to

TRANSATLANTIC CAPITAL COMPANY, L.L.C.,

as Assignee

---

ASSIGNMENT OF LEASES AND RENTS

---

Dated: October 26, 1998

PREPARED BY AND UPON RECORDATION RETURN TO:

SONNENSCHN NATH & ROSENTHAL

8000 Sears Tower

233 S. Wacker Drive

Chicago, IL 60606-6404

Attention: Steven R. Davidson, Esq.

## ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "Assignment") made as of October 26, 1998 by SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., a Michigan limited liability company ("Assignor"), whose address is 18700 W. Ten Mile Road, Southfield, Michigan 48075, in favor of TRANSATLANTIC CAPITAL COMPANY, L.L.C., a Delaware limited liability company ("Assignee"), whose address is 31 West 52nd Street, 10th Floor, New York, New York 10019.

### W I T N E S S E T H:

THAT, WHEREAS, Assignor has executed that certain Promissory Note (the "Note") dated of even date herewith, payable to the order of Assignee in the stated principal amount of TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00); and

WHEREAS, the Note is secured by that certain Mortgage and Security Agreement (the "Mortgage") dated of even date herewith, from Assignor for the benefit of Assignee, encumbering that certain real property situated in the County of Lake, State of Florida, as more particularly described on Exhibit A attached hereto and incorporated herein by this reference, and all buildings and other improvements now or hereafter located thereon (collectively, the "Improvements") (said real property and the Improvements are hereinafter sometimes collectively referred to as the "Property"); and

WHEREAS, Assignor is desirous of further securing to Assignee the performance of the terms, covenants and agreements hereof and of the Note, the Mortgage and each other document evidencing, securing, guaranteeing or otherwise relating to the indebtedness evidenced by the Note (the Note, the Mortgage and such other documents, as each of the foregoing may from time to time be amended, consolidated, renewed or replaced, being collectively referred to herein as the "Loan Documents").

NOW, THEREFORE, in consideration of the making of the loan evidenced by the Note by Assignee to Assignor and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby irrevocably, absolutely and unconditionally transfer, sell, assign, pledge and convey to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to:

(a) any and all leases, licenses, rental agreements and occupancy agreements of whatever form now or hereafter affecting all or any part of the Property and any and all guarantees, extensions, renewals, replacements and modifications thereof (collectively, the "Leases"); and

(b) all deposits (whether for security or otherwise), rents, issues, profits, revenues, royalties, accounts, rights, benefits and income of every nature of and from the Property, including, without limitation, minimum rents, additional rents, termination payments, forfeited

security deposits, liquidated damages following a default thereunder and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability due to destruction or damage to the Property, together with the immediate and continuing right to collect and receive the same, whether now due or hereafter becoming due, and together with all rights and claims of any kind that Assignor may have against any tenant, lessee or licensee under the Leases or against any other occupant of the Property, any award or other payment which Assignor may hereafter become entitled to receive with respect to any of the Leases as a result of or pursuant to any bankruptcy, insolvency or reorganization or similar proceedings involving any tenant under such Leases, and any and all payments made by or on behalf of any tenant of any part of the Property in lieu of rent (collectively, the "Rents").

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns.

IT IS AGREED that this Assignment is made upon the following terms, covenants and conditions:

1. Assignor represents, warrants and covenants to and for the benefit of Assignee: (a) that Assignor now is (or with respect to any Lease not yet in existence, will be immediately upon the execution thereof) the absolute owner of the landlord's interest in the Leases, with full right and title to assign the same and the Rents due or to become due thereunder; (b) that, other than this Assignment and those assignments, if any, specifically permitted in the Mortgage, there are no outstanding assignments of the Leases or Rents; (c) that no Rents have been anticipated, discounted, released, waived, compromised or otherwise discharged, except for prepayment of rent of not more than one (1) month prior to the accrual thereof; (d) that there are no material defaults now existing under any of the Leases by the landlord or tenant, and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases by the landlord or tenant, except as disclosed in writing to Assignee; (e) that Assignor has and shall duly and punctually observe and perform all covenants, conditions and agreements in the Leases on the part of the landlord to be observed and performed thereunder; and (f) the Leases are in full force and effect and are the valid and binding obligations of Assignor, and, to the knowledge of Assignor, are the valid and binding obligations of the tenants thereto.

2. Notwithstanding that this instrument is a present, absolute and executed assignment of the Rents and of the Leases and a present, absolute and executed grant of the powers herein granted to Assignee, Assignor is hereby permitted, and is hereby granted a revocable license by Assignee, to retain possession of the Leases and to collect and retain the Rents unless and until there shall be an Event of Default under this Assignment, the Mortgage or the other Loan Documents. In the event of such Event of Default, the aforementioned license granted to Assignor shall automatically terminate without notice to Assignor, and Assignee may thereafter, without taking possession of the Property, take possession of the Leases and collect the Rents. Further, from and after such termination, Assignor shall be the agent of Assignee in collection of the Rents, and any Rents so collected by Assignor shall be held in trust by Assignor for the sole and exclusive benefit of Assignee, and Assignor shall, within one



(1) business day after receipt of any Rents, pay the same to Assignee to be applied by Assignee as hereinafter set forth. Furthermore, from and after such Event of Default and termination of the aforementioned license, Assignee shall have the right and authority, without any notice whatsoever to Assignor and without regard to the adequacy of the security therefor, to: (a) manage and operate the Property, with full power to employ agents to manage the same; (b) demand, collect, receive and sue for the Rents, including those past due and unpaid; and (c) do all acts relating to such management, operation, rental, leasing, repair, improvement and alteration of the Property as Assignee in its sole and absolute discretion shall determine. Assignee may apply the Rents received by Assignee from the Property, after deducting the costs of collection thereof, including, without limitation, reasonable attorneys' fees and a management fee for any management agent so employed, against amounts expended for repairs, upkeep, maintenance, service, fuel, utilities, taxes, assessments, insurance premiums and such other expenses as Assignee incurs in connection with the operation of the Property and against interest, principal, required escrow deposits and other sums which have or which may become due, from time to time, under the terms of the Loan Documents, in such order or priority as to any of the items so mentioned as Assignee, in its sole and absolute discretion, may determine.

3. Without limiting the rights granted hereinabove, in the event Assignor shall fail to make any payment or to perform any act required under the terms hereof and such failure shall not be cured within any applicable grace or cure period, then Assignee may, but shall not be obligated to, without prior notice to or demand on Assignor, and without releasing Assignor from any obligation hereof, make or perform the same in such manner and to such extent as Assignee may deem necessary to protect the security hereof, including specifically, without limitation, appearing in and defending any action or proceeding purporting to affect the security hereof or the rights or powers of Assignee, performing or discharging any obligation, covenant or agreement of Assignor under any of the Leases, and, in exercising any of such powers, paying all necessary costs and expenses, employing counsel and incurring and paying reasonable attorneys' fees. Any sum advanced or paid by Assignee for any such purpose, including, without limitation, reasonable attorneys' fees, together with interest thereon at the Default Interest Rate (as defined in the Note) from the date paid or advanced by Assignee until repaid by Assignor, shall immediately be due and payable to Assignee by Assignor on demand and shall be secured by the Mortgage and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

4. This Assignment shall not operate to place responsibility for the control, care, management or repair of the Property upon Assignee, nor for the performance of any of the terms and conditions of any of the Leases, nor shall it operate to make Assignee responsible or liable for any waste committed on the Property by the tenants or any other party or for any dangerous or defective condition of the Property or for any negligence in the management, upkeep, repair or control of the Property. Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Property or from any other act or omission of Assignee in managing the Property. This Assignment shall not be construed as making Assignee a mortgagee in possession. Assignee is obligated to account to Assignor only for such Rents as are actually collected or received by Assignee.

5. Assignor shall and does hereby indemnify and hold Assignee harmless from and against any and all liability, loss, claim, demand or damage which may or might be incurred by reason of this Assignment, including, without limitation, claims or demands for security deposits from tenants of space in the Improvements deposited with Assignor, and from and against any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Leases. Should Assignee incur any liability by reason of this Assignment or in defense of any claim or demand for loss or damage as provided above, the amount thereof, including, without limitation, costs, expenses and reasonable attorneys' fees, together with interest thereon at the Default Interest Rate from the date paid or incurred by Assignee until repaid by Assignor, shall be immediately due and payable to Assignee by Assignor upon demand and shall be secured by the Mortgage and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

6. Assignor hereby irrevocably appoints Assignee as its attorney-in-fact, which power of attorney is coupled with an interest by virtue of this Assignment and is irrevocable so long as any sums are outstanding under the Note to, from and after the occurrence of an Event of Default by Assignor hereunder or under any of the other Loan Documents, do, make or perform any act, right or privilege which Assignee shall have under or by virtue of this Assignment.

7. Assignor covenants and agrees that Assignor shall not, without the prior written consent of Assignee, further pledge, transfer, mortgage or otherwise encumber or assign the Leases or future payments of Rents, except as otherwise expressly permitted by the terms of the Mortgage, or incur any material indebtedness, liability or other obligation to any tenant, lessee or licensee under the Leases, or permit any Lease to become subordinate to any lien other than the lien of the Mortgage.

8. At any time, Assignee may, at its option, notify any tenants or other parties of the existence of this Assignment. Assignor does hereby specifically authorize, instruct and direct each and every present and future tenant, lessee and licensee of the whole or any part of the Property to pay all unpaid and future Rents to Assignee upon receipt of demand from Assignee to so pay the same, and Assignor hereby agrees that each such present and future tenant, lessee and licensee may rely upon such written demand from Assignee to so pay said Rents without any inquiry into whether there exists an Event of Default hereunder or under the other Loan Documents or whether Assignee is otherwise entitled to said Rents. Assignor hereby waives any right, claim or demand which Assignor may now or hereafter have against any present or future tenant, lessee or licensee by reason of such payment of Rents to Assignee, and any such payment shall discharge such tenant's, lessee's or licensee's obligation to make such payment to Assignor.

9. The acceptance of this Assignment and the collection of the Rents as herein provided shall be without prejudice to Assignee. The exercise or failure to exercise by Assignee of the rights granted Assignee in this Assignment, and the collection of the Rents and the application thereof as herein provided, shall not be considered a waiver by Assignee of any Event of Default under the Loan Documents or prevent foreclosure of any liens on the Property

nor shall such exercise make Assignee liable under any of the Leases, Assignee hereby expressly reserving all of its rights and privileges under the Mortgage and the other Loan Documents as fully as though this Assignment had not been entered into. The rights of Assignee hereunder are cumulative and concurrent, may be pursued separately, successively or together and may be exercised as often as occasion therefor shall arise, it being agreed by Assignor that the exercise of any one or more of the rights provided for herein shall not be construed as a waiver of any of the other rights or remedies of Assignee, at law or in equity or otherwise, so long as any obligation under the Loan Documents remains unsatisfied.

10. All rights of Assignee hereunder shall inure to the benefit of its successors and assigns and shall pass to and may be exercised by any assignee of Assignee. All obligations of Assignor shall bind its successors and assigns and any subsequent owner of the Property. Assignor hereby agrees that if Assignee gives notice to Assignor of an assignment of its rights under this Assignment, upon such notice, the liability of Assignor to the assignee of the Assignee shall be immediate and absolute. Assignor will not assert any claim against Assignee or any subsequent assignee as a defense, counterclaim or set-off to any action brought by Assignee or any subsequent assignee for any amounts due hereunder or for possession of or the exercise of rights with respect to the Leases or the Rents.

11. It shall be an Event of Default hereunder (a) if any representation or warranty made herein by Assignor is determined by Assignee to have been false or misleading in any material respect at the time made or if Assignor fails to disclose a material fact necessary to make any representation made herein not misleading, or (b) if Assignor violates the provisions of Paragraph 7 hereof, or (c) if any Event of Default under the Mortgage or any of the other Loan Documents shall occur.

12. If any provision of this Assignment or the application thereof to any entity, person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Assignment and the application of the provisions hereof to other entities, persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

13. This Assignment may not be amended, modified or otherwise changed except by a written instrument duly executed by Assignor and Assignee.

14. This Assignment shall be in full force and effect continuously from the date hereof to and until the Mortgage shall be released of record, and the release of the Mortgage shall, for all purposes, automatically terminate this Assignment and render this Assignment null and void and of no effect whatsoever. This Assignment shall continue and remain in full force and effect during any period of foreclosure with respect to the Property.

15. In case of a conflict between any provision of this Assignment and either the Note or the Mortgage, the provisions of the Note or the Mortgage shall prevail and be controlling.

16. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be given and become effective as provided in the Mortgage.

17. THIS ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS SITUATED WITHOUT REGARD TO ITS CONFLICTS OF LAW RULES.

18. This Assignment may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Assignment may be detached from any counterpart of this Assignment without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Assignment identical in form hereto but having attached to it one or more additional signature pages.

19. In addition to, but not in lieu of, any other rights hereunder, Assignee shall have the right to institute suit and obtain a protective or mandatory injunction against Assignor to prevent a breach or Event of Default hereunder, or to enforce the observance of the agreements, covenants, terms and conditions contained herein.

20. Assignee shall, as a matter of absolute right, be entitled, upon application to a court of applicable jurisdiction, and without notice to Assignor, to the appointment of a receiver to obtain and secure the rights of Assignee hereunder and the benefits intended to be provided to Assignee hereunder.

21. Notwithstanding anything to the contrary contained in this Assignment, the liability of Assignor and its officers, directors, general partners, managers, members and principals for the indebtedness secured hereby and for the performance of the other agreements, covenants and obligations contained herein and in the Loan Documents shall be limited as set forth in the Note.

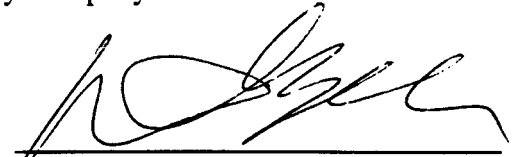
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IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day and year first written above.

**ASSIGNOR:**

**SANDPIPER MOBILE MANOR  
ASSOCIATES, L.L.C., a Michigan limited  
liability company**

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



**Name: Peter Beer**

**Title: Managing Member**

STATE OF MISSISSIPPI )  
 )  
COUNTY OF OSHALES )

The foregoing instrument was acknowledged before me this 22 day of October, 1998 by Peter Beer, Managing Member of Sandpiper Mobile Manor Associates, L.L.C., on behalf of said limited liability company.

[SEAL]

*Diane Gilbert*  
Notary Public DIANE GILBERT  
NOTARY PUBLIC - OSALES COUNTY, MS  
MY COMMISSION EXPIRES 01/10/01  
My Commission Expires: \_\_\_\_\_

EXHIBIT A

Legal Description

Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shoreline of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida

4



## GUARANTY

THIS GUARANTY (this "Agreement"), made as of October 26, 1998 by PETER BEER, BENEDETTO SORRENTINO, AND THOMAS BARNETT (collectively, "Indemnitor"), whose addresses are 18700 W. 10 Mile, Suite 200, Southfield, Michigan 48075, 15505 15 Mile, 2nd Floor, Clinton Twp., Michigan 48035, and 3504 Sutton Place Bloomfield Hills, Michigan 48301, respectively in favor of TRANSATLANTIC CAPITAL COMPANY, L.L.C., a Delaware limited liability company ("Lender"), whose address is 31 West 52nd Street, 10th Floor, New York, New York 10019.

### W I T N E S S E T H:

WHEREAS, Lender has extended to Sandpiper Mobile Manor Associates, L.L.C., a Michigan limited liability company ("Borrower") a loan (the "Loan") which is evidenced by a Promissory Note (the "Note") dated of even date herewith, executed by Borrower and payable to the order of Lender, in the original principal amount of TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00), and is secured by a Mortgage and Security Agreement, dated of even date herewith (the "Mortgage"), from Borrower for the benefit of Lender, encumbering that certain real property situated in the County of Lake, State of Florida, as more particularly described on Exhibit A attached hereto, together with the buildings, structures and other improvements now or hereafter located thereon (said real property, buildings, structures and other improvements are herein collectively referred to as the "Property") and by other documents and instruments (the Note, the Mortgage and such other documents and instruments, as the same may from time to time be amended, consolidated, renewed or replaced, being collectively referred to herein as the "Loan Documents"); and

WHEREAS, as a condition to making the Loan to Borrower, Lender has required that Indemnitor indemnify Lender from and against and guarantee payment to Lender of those items for which Borrower is personally liable and for which Lender has recourse against Borrower under the terms of the Note and the Mortgage; and

WHEREAS, Indemnitor are direct or indirect owners of Borrower, the extension of credit to Borrower is of substantial benefit to Indemnitor.

NOW, THEREFORE, to induce Lender to extend the Loan to Borrower and in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Indemnitor hereby covenants and agrees for the benefit of Lender, as follows:

1. Indemnity and Guaranty. Indemnitor hereby assumes liability for, hereby guarantees payment to Lender of, hereby agrees to pay, protect, defend and save Lender harmless from and against, and hereby indemnifies Lender from and against any and all liabilities, obligations, losses, damages, costs and expenses (including, without limitation, attorneys' fees), causes of action, suits, claims, demands and judgments of any nature or description whatsoever (collectively, "Costs") which may at any time be imposed upon, incurred

by or awarded against Lender as a result of:

(a) Rent and other payments received from tenants under leases of all or any portion of the Property paid more than one (1) month in advance;

(b) Rents, issues, profits, revenues of all or any portion of the Property, proceeds of insurance policies or of condemnation or other taking, tenant security deposits paid to or held by or on behalf of Maker relating to the Property received or applicable to a period after the occurrence of an Event of Default under the Loan Documents, or any event which with notice or the passage of time, or both, would constitute an Event of Default, which are not either applied to the ordinary and necessary expenses of owning and operating the Property or paid to Lender;

(c) All obligations and indemnities of Borrower under the Loan Documents relating to hazardous or toxic substances or compliance with environmental laws and regulations, to the full extent of any losses or damages (including those resulting from diminution in value of any Property) incurred by Lender as a result of the existence of such hazardous or toxic substances or failure to comply with environmental laws or regulations;

(d) Fraud, material misrepresentation or failure to disclose a material fact by Borrower or any of its principals, officers, general partners or members, any guarantor, any indemnitor, or any agent, employee or other person authorized or apparently authorized to make statements, representations or disclosures on behalf of Borrower, any principal, officer, general partner or member of Borrower, or any guarantor or any indemnitor, or any agent or employee of any such persons to the full extent of any losses, damages and expenses of Lender on account thereof; and

(e) Within nine (9) months of the date hereof, (i) a voluntary bankruptcy filing by, or an involuntary bankruptcy filing against, Borrower or any general partner, managing member or majority shareholder of Borrower; or (ii) the Property becoming an asset in any bankruptcy proceeding.

This is a guaranty of payment and performance and not of collection. The liability of Indemnitor under this Agreement shall be direct and immediate and not conditional or contingent upon the pursuit of any remedies against Borrower or any other person (including, without limitation, other guarantors, if any), nor against the collateral for the Loan. Indemnitor waives any right to require that an action be brought against Borrower or any other person or to require that resort be made to any collateral for the Loan or to any balance of any deposit account or credit on the books of Lender in favor of Borrower or any other person. In the event, on account of Title II, United States Code, as amended, or any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, Borrower shall be relieved of or fail to incur any debt, obligation or liability as provided in the Loan Documents, Indemnitor shall nevertheless be fully liable therefor. In the event of a default under the Loan Documents which is not cured

within any applicable grace or cure period, Lender shall have the right to enforce its rights, powers and remedies (including, without limitation, foreclosure of all or any portion of the collateral for the Loan) thereunder or hereunder, in any order, and all rights, powers and remedies available to Lender in such event shall be non-exclusive and cumulative of all other rights, powers and remedies provided thereunder or hereunder or by law or in equity. If the indebtedness and obligations guaranteed hereby are partially paid or discharged by reason of the exercise of any of the remedies available to Lender, this Agreement shall nevertheless remain in full force and effect, and Indemnitor shall remain liable for all remaining indebtedness and obligations guaranteed hereby, even though any rights which Indemnitor may have against Borrower may be lost or diminished by the exercise of any such remedy.

2. Indemnification Procedures.

(a) If any action shall be brought against Lender based upon any of the matters for which Lender is indemnified hereunder, Lender shall notify Indemnitor in writing thereof and Indemnitor shall promptly assume the defense thereof, including, without limitation, the employment of counsel acceptable to Lender and the negotiation of any settlement; provided, however, that any failure of Lender to notify Indemnitor of such matter shall not impair or reduce the obligations of Indemnitor hereunder. Lender shall have the right, at the expense of Indemnitor (which expense shall be included in Costs), to employ separate counsel in any such action and to participate in the defense thereof. In the event Indemnitor shall fail to discharge or undertake to defend Lender against any claim, loss or liability for which Lender is indemnified hereunder, Lender may, at its sole option and election, defend or settle such claim, loss or liability. The liability of Indemnitor to Lender hereunder shall be conclusively established by such settlement, provided such settlement is made in good faith, the amount of such liability to include both the settlement consideration and the costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Lender in effecting such settlement. In such event, such settlement consideration, costs and expenses shall be included in Costs and Indemnitor shall pay the same as hereinafter provided. Lender's good faith in any such settlement shall be conclusively established if the settlement is made on the advice of independent legal counsel for Lender.

(b) Indemnitor shall not, without the prior written consent of Lender: (i) settle or compromise any action, suit, proceeding or claim or consent to the entry of any judgment that does not include as an unconditional term thereof the delivery by the claimant or plaintiff to Lender of a full and complete written release of Lender (in form, scope and substance satisfactory to Lender in its sole discretion) from all liability in respect of such action, suit, proceeding or claim and a dismissal with prejudice of such action, suit, proceeding or claim; or (ii) settle or compromise any action, suit, proceeding or claim in any manner that may adversely affect Lender (including, without limitation, Lender's reputation) or obligate Lender to pay any sum or perform any obligation as determined by Lender in its sole discretion.

(c) All Costs shall be immediately reimbursable to Lender when and as incurred and, in the event of any litigation, claim or other proceeding, without any requirement

of waiting for the ultimate outcome of such litigation, claim or other proceeding, and Indemnitor shall pay to Lender any and all Costs within ten (10) days after written notice from Lender itemizing the amounts thereof incurred to the date of such notice. In addition to any other remedy available for the failure of Indemnitor to periodically pay such Costs, such Costs, if not paid within said ten-day period, shall bear interest at the Default Interest Rate (as defined in the Note) and such costs and interest shall be additional indebtedness of Borrower secured by the Mortgage and by the other Loan Documents securing all or part of the Loan.

3. Reinstatement of Obligations. If at any time all or any part of any payment made by Indemnitor or received by Lender from Indemnitor under or with respect to this Agreement is or must be rescinded or returned for any reason whatsoever (including, but not limited to, the insolvency, bankruptcy or reorganization of Indemnitor or Borrower), then the obligations of Indemnitor hereunder shall, to the extent of the payment rescinded or returned, be deemed to have continued in existence, notwithstanding such previous payment made by Indemnitor, or receipt of payment by Lender, and the obligations of Indemnitor hereunder shall continue to be effective or be reinstated, as the case may be, as to such payment, all as though such previous payment by Indemnitor had never been made.

4. Waivers by Indemnitor. To the extent permitted by law, Indemnitor hereby waives and agrees not to assert or take advantage of:

(a) Any right to require Lender to proceed against Borrower or any other person or to proceed against or exhaust any security held by Lender at any time or to pursue any other remedy in Lender's power or under any other agreement before proceeding against Indemnitor hereunder;

(b) Any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of Lender to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(c) Demand, presentment for payment, notice of nonpayment, protest, notice of protest and all other notices of any kind, or the lack of any thereof, including, without limiting the generality of the foregoing, notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of Borrower, Lender, any endorser or creditor of Borrower or of Indemnitor or on the part of any other person whomsoever under this or any other instrument in connection with any obligation or evidence of indebtedness held by Lender;

(d) Any defense based upon an election of remedies by Lender;

(e) Any right or claim of right to cause a marshaling of the assets of Indemnitor or Borrower;

(f) Any principle or provision of law, statutory or otherwise, which is or might be in conflict with the terms and provisions of this Agreement;

(g) Any duty on the part of Lender to disclose to Indemnitator any facts Lender may now or hereafter know about Borrower or the Property, regardless of whether Lender has reason to believe that any such facts materially increase the risk beyond that which Indemnitator intends to assume or has reason to believe that such facts are unknown to Indemnitator or has a reasonable opportunity to communicate such facts to Indemnitator, it being understood and agreed that Indemnitator is fully responsible for being and keeping informed of the financial condition of Borrower, of the condition of the Property and of any and all circumstances bearing on the risk that liability may be incurred by Indemnitator hereunder;

(h) Any lack of notice of disposition or of manner of disposition of any collateral for the Loan;

(i) Any invalidity, irregularity or unenforceability, in whole or in part, of any one or more of the Loan Documents;

(j) Any lack of commercial reasonableness in dealing with the collateral for the Loan;

(k) Any deficiencies in the collateral for the Loan or any deficiency in the ability of Lender to collect or to obtain performance from any persons or entities now or hereafter liable for the payment and performance of any obligation hereby guaranteed;

(l) An assertion or claim that the automatic stay provided by 11 U.S.C. §362 (arising upon the voluntary or involuntary bankruptcy proceeding of Borrower) or any other stay provided under any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, shall operate or be interpreted to stay, interdict, condition, reduce or inhibit the ability of Lender to enforce any of its rights, whether now or hereafter required, which Lender may have against Indemnitator or the collateral for the Loan;

(m) Any modifications of the Loan Documents or any obligation of Borrower relating to the Loan by operation of law or by action of any court, whether pursuant to Title II, United States Code, as amended, or any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, or otherwise; and

(n) Any action, occurrence, event or matter consented to by Indemnitator under Section 6(h) hereof, under any other provision hereof, or otherwise.

5. General Provisions.

(a) Fully Recourse. All of the terms and provisions of this Agreement are recourse obligations of Indemnitor and not restricted by any limitation on personal liability provided in any of the other Loan Documents or limited to any collateral securing any of the obligations under this Agreement, it being the intent of Lender to create separate obligations of Indemnitor hereunder which can be enforced against Indemnitor without regard to the existence of the Mortgage or other Loan Documents or the liens or security interests created therein.

(b) Unsecured Obligations. Indemnitor hereby acknowledges that Lender's appraisal of the Property is such that Lender is not willing to accept the consequences of the inclusion of Indemnitor's indemnity set forth herein among the obligations secured by the Mortgage and the other Loan Documents and that Lender would not make the Loan but for the unsecured personal liability undertaken by Indemnitor herein.

(c) Survival. This Agreement shall be deemed to be continuing in nature and shall remain in full force and effect and shall survive the payment of the indebtedness evidenced and secured by the Loan Documents and the exercise of any remedy by Lender under the Mortgage or any of the other Loan Documents, including, without limitation, any foreclosure or deed in lieu thereof, even if, as a part of such remedy, the Loan is paid or satisfied in full.

(d) No Subrogation; No Recourse Against Lender. Notwithstanding the satisfaction by Indemnitor of any liability hereunder, Indemnitor shall not have any right of subrogation, contribution, reimbursement or indemnity whatsoever or any right of recourse to or with respect to the assets or property of Borrower or to any collateral for the Loan. In connection with the foregoing, Indemnitor expressly waives any and all rights of subrogation to Lender against Borrower, and Indemnitor hereby waives any rights to enforce any remedy which Lender may have against Borrower and any right to participate in any collateral for the Loan. In addition to and without in any way limiting the foregoing, Indemnitor hereby subordinates any and all indebtedness of Borrower now or hereafter owed to Indemnitor to all indebtedness of Borrower to Lender, and agrees with Lender that Indemnitor shall not demand or accept any payment of principal or interest from Borrower, shall not claim any offset or other reduction of Indemnitor's obligations hereunder because of any such indebtedness and shall not take any action to obtain any of the collateral securing the Loan. Further, Indemnitor shall not have any right of recourse against Lender by reason of any action Lender may take or omit to take under the provisions of this Agreement or under the provisions of any of the Loan Documents.

(e) Reservation of Rights. Nothing contained in this Agreement shall prevent or in any way diminish or interfere with any rights or remedies, including, without limitation, the right to contribution or cost recovery, which Lender may have against Borrower, Indemnitor or any other party under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (codified at Title 42 U.S.C. §9601 et seq.), as it may be amended from time to time, or any other applicable federal, state or local laws, all such rights being hereby expressly reserved.

(f) Financial Statements. Indemnitor hereby agrees, as a material inducement to Lender to make the Loan to Borrower, to furnish to Lender promptly upon demand by Lender current and dated financial statements certified by or on behalf of Indemnitor, detailing the assets and liabilities of Indemnitor, in form and substance acceptable to Lender. Indemnitor hereby warrants and represents that any and all balance sheets, net worth statements and other financial data which have heretofore been given or may hereafter be given to Lender with respect to Indemnitor did or will at the time of such delivery fairly and accurately present the financial condition of Indemnitor.

(g) Rights Cumulative; Payments. Lender's rights under this Agreement shall be in addition to all rights of Lender under the Note, the Mortgage and the other Loan Documents. FURTHER, PAYMENTS MADE BY INDEMNITOR UNDER THIS AGREEMENT SHALL NOT REDUCE IN ANY RESPECT BORROWER'S OBLIGATIONS AND LIABILITIES UNDER THE NOTE, THE MORTGAGE OR THE OTHER LOAN DOCUMENTS EXCEPT WITH RESPECT TO, AND TO THE EXTENT OF, BORROWER'S OBLIGATION AND LIABILITY FOR THE PAYMENT MADE BY INDEMNITOR.

(h) No Limitation on Liability. Indemnitor hereby consents and agrees that Lender may at any time and from time to time without further consent from Indemnitor do any of the following events, and the liability of Indemnitor under this Agreement shall be unconditional and absolute and shall in no way be impaired or limited by any of the following events, whether occurring with or without notice to Indemnitor or with or without consideration: (i) any extensions of time for performance required by any of the Loan Documents or extension or renewal of the Note; (ii) any sale, assignment or foreclosure of the Note, the Mortgage or any of the other Loan Documents or any sale or transfer of the Property; (iii) any change in the composition of Borrower, including, without limitation, the withdrawal or removal of Indemnitor from any current or future position of ownership, management or control of Borrower; (iv) the accuracy or inaccuracy of the representations and warranties made by Indemnitor herein or by Borrower in any of the Loan Documents; (v) the release of Borrower or of any other person or entity from performance or observance of any of the agreements, covenants, terms or conditions contained in any of the Loan Documents by operation of law, Lender's voluntary act or otherwise; (vi) the release or substitution in whole or in part of any security for the Loan; (vii) Lender's failure to record the Mortgage or to file any financing statement (or Lender's improper recording or filing thereof) or to otherwise perfect, protect, secure or insure any lien or security interest given as security for the Loan; (viii) the modification of the terms of any one or more of the Loan Documents; or (ix) the taking or failure to take any action of any type whatsoever. No such action which Lender shall take or fail to take in connection with the Loan Documents or any collateral for the Loan, nor any course of dealing with Borrower or any other person, shall limit, impair or release Indemnitor's obligations hereunder, affect this Agreement in any way or afford Indemnitor any recourse against Lender. Nothing contained in this Section shall be construed to require Lender to take or refrain from taking any action referred to herein.

(i) Entire Agreement; Amendment; Severability. This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes

all prior agreements, whether written or oral, between the parties respecting such matters. Any amendments or modifications hereto, in order to be effective, shall be in writing and executed by the parties hereto. A determination that any provision of this Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Agreement to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

(j) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED.

(k) Binding Effect; Waiver of Acceptance. This Agreement shall bind Indemnitor and its heirs, personal representatives, successors and assigns and shall inure to the benefit of Lender and the officers, directors, shareholders, agents and employees of Lender and their respective heirs, personal representatives, successors and assigns. Notwithstanding the foregoing, Indemnitor shall not assign any of its rights or obligations under this Agreement without the prior written consent of Lender, which consent may be withheld by Lender in its sole discretion. Indemnitor hereby waives any acceptance of this Agreement by Lender, and this Agreement shall immediately be binding upon Indemnitor.

(l) Notice. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in person to the intended addressee, or by depositing the same with Federal Express or another reputable private courier service for next business day delivery to the intended addressee at its address set forth on the first page of this Agreement or at such other address as may be designated by such party as herein provided, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the intended addressee at its address set forth on the first page of this Agreement or at such other address as may be designated by such party as herein provided. All notices, demands and requests shall be effective upon such personal delivery, or one (1) business day after being deposited with the private courier service, or two (2) business days after being deposited in the United States mail as required above. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as herein required shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto at least fifteen (15) days' prior written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

(m) No Waiver; Time of Essence; Business Days. The failure of any party hereto to enforce any right or remedy hereunder, or to promptly enforce any such right or remedy, shall not constitute a waiver thereof nor give rise to any estoppel against such party nor excuse any of the parties hereto from their respective obligations hereunder. Any waiver of such



right or remedy must be in writing and signed by the party to be bound. This Agreement is subject to enforcement at law or in equity, including actions for damages or specific performance. Time is of the essence hereof. The term "business day" as used herein shall mean a weekday, Monday through Friday, except a legal holiday or a day on which banking institutions in New York, New York are authorized by law to be closed.

(n) Captions for Convenience. The captions and headings of the sections and paragraphs of this Agreement are for convenience of reference only and shall not be construed in interpreting the provisions hereof.

(o) Reasonable Attorney's Fees. In the event it is necessary for Lender to retain the services of an attorney or any other consultants in order to enforce this Agreement, or any portion thereof, Indemnitor agrees to pay to Lender any and all costs and expenses, including, without limitation, reasonable attorney's fees, incurred by Lender as a result thereof and such costs, fees and expenses shall be included in Costs.

(p) Successive Actions. A separate right of action hereunder shall arise each time Lender acquires knowledge of any matter indemnified or guaranteed by Indemnitor under this Agreement. Separate and successive actions may be brought hereunder to enforce any of the provisions hereof at any time and from time to time. No action hereunder shall preclude any subsequent action, and Indemnitor hereby waives and covenants not to assert any defense in the nature of splitting of causes of action or merger of judgments.

(q) Joint and Several Liability. Notwithstanding anything to the contrary contained herein, the representations, warranties, covenants and agreements made by Indemnitor herein, and the liability of Indemnitor hereunder, is joint and several if Indemnitor is comprised of more than one person or entity.

(r) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.

(s) SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL.

(1) INDEMNITOR, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (A) SUBMITS TO PERSONAL JURISDICTION IN THE STATE IN WHICH THE PROPERTY IS LOCATED OVER ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON ARISING FROM OR RELATING TO THIS AGREEMENT, (B) AGREES THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY

BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION SITTING IN THE COUNTY AND STATE IN WHICH THE PROPERTY IS LOCATED, (C) SUBMITS TO THE JURISDICTION OF SUCH COURTS, AND (D) TO THE FULLEST EXTENT PERMITTED BY LAW, AGREES THAT INDEMNITOR WILL NOT BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM (BUT NOTHING HEREIN SHALL AFFECT THE RIGHT OF LENDER TO BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM).

(2) EACH OF INDEMNITOR AND LENDER BY ITS ACCEPTANCE OF THIS AGREEMENT, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS AGREEMENT OR ANY CONDUCT, ACT OR OMISSION OF LENDER OR INDEMNITOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSONS AFFILIATED WITH LENDER OR INDEMNITOR, IN EACH OR THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH INDEMNITOR HEREBY CONSENTS AND AGREES TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING ARISING FROM OR RELATING TO THIS AGREEMENT BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID TO INDEMNITOR AT THE ADDRESS SET FORTH HEREINABOVE.

(t) Waiver by Indemnitor. Indemnitor covenants and agrees that, upon the commencement of a voluntary or involuntary bankruptcy proceeding by or against Borrower, Indemnitor shall not seek or cause Borrower or any other person or entity to seek a supplemental stay or other relief, whether injunctive or otherwise, pursuant to 11 U.S.C. §105 or any other provision of Title II, United States Code, as amended, or any other debtor relief law, (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, to stay, interdict, condition, reduce or inhibit the ability of Lender to enforce any rights of Lender against Indemnitor or the collateral for the Loan by virtue of this Agreement or otherwise.

(u) SPECIFIC NOTICE. IT IS EXPRESSLY AGREED AND UNDERSTOOD THAT THIS AGREEMENT INCLUDES INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY INDEMNITOR OF LENDER FROM CLAIMS OR LOSSES ARISING AS A RESULT OF LENDER'S OWN NEGLIGENCE.

(v) Secondary Market. Lender may sell, transfer and deliver the Loan Documents to one or more investors in the secondary mortgage market. In connection with such sale, Lender may retain or assign responsibility for servicing the Loan or may delegate some or all of such responsibility and/or obligations to a servicer, including, but not limited to, any

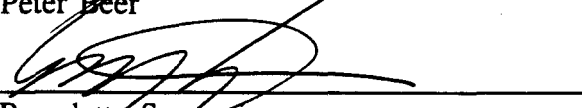
subservicer or master servicer, on behalf of the investors. All references to Lender herein shall refer to and include, without limitation, any such servicer, to the extent applicable.

(w) Special Condition. Indemnitor covenants and agrees not to permit the owner of any mobile park within 5 miles of the Property to lease space in such parks to any party that occupied space in the Property during the twelve (12) month period immediately preceding the time of such lease, unless Mortgagee consents in writing to such lease.

IN WITNESS WHEREOF, Indemnitor has executed this Guaranty as of the day and year first written above.

**INDEMNITOR:**

  
\_\_\_\_\_  
Peter Beer

  
\_\_\_\_\_  
Benedetto Sorrentino


  
\_\_\_\_\_  
Thomas Barnett

EXHIBIT A

Legal Description

Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shoreline of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida

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## ENVIRONMENTAL INDEMNITY AGREEMENT

THIS ENVIRONMENTAL INDEMNITY AGREEMENT (this "Agreement"), made as of October 26, 1998 jointly and severally by SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., a Michigan limited liability company, ("Borrower"), whose address is 18700 West Ten Mile Road, Southfield, Michigan 48075, by LAKE YALE TREATMENT ASSOCIATES, INC. a Michigan Corporation ("Lake Yale"), whose address is 18700 West Ten Mile Road, Southfield, Michigan 48075, and by PETER BEER, BENEDETTO SORRENTINO, AND THOMAS BARNETT (collectively "Principal") whose addresses are 18700 West Ten Mile Road, Suite 200, Southfield, Michigan 48075, 15505 Fifteen Mile Road, 2nd Floor, Clinton Twp., Michigan 48035, and 3504 Sutton Place Bloomfield Hills, Michigan 48301, respectively (Borrower, Lake Yale, and Principal being referred to herein collectively as "Indemnitor"), in favor of TRANSATLANTIC CAPITAL COMPANY L.L.C., a Delaware limited liability company and its successors and assigns ("Lender"), whose address is 31 West 52nd Street, 10th Floor, New York, New York 10019.

### W I T N E S S E T H :

WHEREAS, Lender has extended to Borrower a loan (the "Loan") which Loan is evidenced by a Promissory Note (the "Note") dated of even date herewith, executed by Borrower and payable to the order of Lender, in the stated principal amount of TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00), and is secured by a Mortgage and Security Agreement (the "Mortgage") dated of even date herewith, from Borrower for the benefit of Lender, encumbering that certain real property situated in the County of Lake, State of Florida, as is more particularly described on Exhibit A attached hereto, together with the buildings, structures and other improvements now or hereafter located thereon (the "Improvements"; said real property, and the Improvements being hereinafter collectively referred to as the "Property"), and by other documents and instruments (the Note, the Mortgage and such other documents and instruments, as the same may from time to time be amended, consolidated, renewed or replaced, being collectively referred to herein as the "Loan Documents"); and

WHEREAS, as a condition to making the Loan, Lender has required that Indemnitor indemnify Lender with respect to any past, present or future environmental conditions or liabilities on, in, under, affecting or in any way associated with the Property as herein set forth and to undertake certain other obligations as set forth herein.

NOW, THEREFORE, to induce Lender to extend the Loan to Borrower and in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Indemnitor hereby covenants and agrees for the benefit of Lender, as follows:

1. Indemnity. Indemnitor hereby assumes liability for, and hereby agrees to pay, protect, defend (at trial and appellate levels and with attorneys, consultants and experts acceptable to Lender), and save Lender harmless from and against, and hereby indemnify Lender from and against any and all liens, damages (including, without limitation, punitive or exemplary

damages), losses, liabilities (including, without limitation, strict liability), obligations, settlement payments, penalties, fines, assessments, citations, directives, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements and expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys', consultants' and experts' fees and disbursements actually incurred in investigating, defending, settling or prosecuting any claim, litigation or proceeding) (collectively "Costs") which may at any time be imposed upon, incurred by or asserted or awarded against Lender, Indemnitor or the Property, and arising directly or indirectly from or out of, whether now, hereafter or heretofore occurring: (i) any violation or alleged violation of, or liability or alleged liability under, any local, state or federal law, rule or regulation, ordinance, decree, order or common law duty pertaining to human health, natural resources or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.) ("CERCLA"), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Emergency Planning and Community-Right-to-Know Act (42 U.S.C. § 11001 et seq.), the Endangered Species Act (16 U.S.C. § 1531 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.) and the Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.), and those relating to Lead Based Paint (as hereinafter defined) and the regulations promulgated pursuant to said laws, all as amended from time to time (collectively, "Environmental Laws"), relating to or affecting the Property or any other property affecting or affected by the Property or any surrounding area or operation of Lake Yale, whether or not caused by or within the control of Indemnitor; (ii) the presence, release or threat of release of or exposure to any hazardous, toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos or asbestos-containing materials, polychlorinated biphenyls, petroleum or petroleum constituents, products or byproducts, flammable explosives, radioactive materials, paint containing more than .05% lead by dry weight ("Lead Based Paint"), infectious substances or raw materials which include hazardous constituents) or any other substances or materials which are included under or regulated by Environmental Laws (collectively, "Hazardous Substances"), on, in, from, under or affecting all or any portion of the Property or any other property affecting or affected by the Property or any surrounding areas or any property or operation of Lake Yale, regardless of whether or not caused by or within the control of Indemnitor; (iii) any release, emission, discharge, transport, treatment, recycling, storage, disposal or arrangement therefor of Hazardous Substances whether on the Property or any property or operation of Lake Yale, originating from the Property or any property or operation of Lake Yale, or otherwise associated with the Indemnitor or any operations conducted on the Property or any property or operation of Lake Yale at any time; (iv) the breach of any representation or warranty contained in this Agreement; (v) the enforcement of this Agreement, or (vi) any environmental investigation, assessment, audit or review conducted in connection with the Property or any property or operation of Lake Yale or the operations conducted at any time thereon, including, without limitation, the cost of assessment, investigation, containment, removal and/or remediation of any and all Hazardous Substances from all or any portion of the Property or any other property affecting or affected by the Property or any surrounding areas or any property or operation of Lake Yale, the cost of any actions taken in response to the

presence, release or threat of release of any Hazardous Substances on, in, under or affecting any portion of the Property or any other property affecting or affected by the Property or any surrounding areas or any property or operation of Lake Yale to prevent or minimize such release or threat of release so that it does not migrate or otherwise cause or threaten danger to present or future public health, safety, welfare or the environment, and costs incurred to comply with Environmental Laws in connection with all or any portion of the Property or any other property affecting or affected by the Property or any surrounding areas or any property or operation of Lake Yale. "Costs" as used in this Agreement shall also include any diminution in the value of the security afforded by the Property or any future reduction of the sales price of the Property by reason of any matter set forth in this Section 1.

2. Representations and Warranties. Indemnitor hereby represents and warrants to and covenants and agrees with Lender as follows:

(a) To the best of Indemnitor's knowledge, information and belief, none of Borrower nor the Property or any tenant at the Property or the operations conducted thereon is in direct or indirect violation of or otherwise exposed to any liability under any Environmental Law;

(b) No Hazardous Substances are located on, in or under or have been handled, generated, stored, processed or disposed of on, in or under or released or discharged from the Property (including underground contamination), except for those substances used by Borrower or tenants of space in the Improvements in the ordinary course of their respective businesses, in compliance with all Environmental Laws and where such could not reasonably be expected to give rise to liability under Environmental Laws;

(c) The Property is not subject to any private or governmental lien or judicial or administrative notice or action arising under Environmental Laws;

(d) There is no pending, nor, to Indemnitor's knowledge, information or belief, threatened litigation arising under Environmental Laws affecting Borrower or the Property;

(e) There are no and have been no underground storage tanks or other underground storage receptacles or surface impoundments for Hazardous Substances or landfills or dumps on the Property;

(f) Indemnitor has received no notice of, and to the best of Indemnitor's knowledge and belief, there exists no investigation, action, proceeding, demand, request or claim by any agency, authority or unit of government or by any third party which could result in any liability, penalty, sanction or judgment under any Environmental Laws with respect to any condition, use or operation of the Property, nor does Indemnitor know of any basis for such an investigation, action, proceeding or claim;



(g) Indemnitor has received no notice that, and to the best of Indemnitor's knowledge and belief, there has been no claim by any party that, any use, operation or condition of the Property has caused any nuisance or any other liability or adverse condition on any other property, nor does Indemnitor know of any basis for such a claim;

(h) Indemnitor has not received, nor to the best of Indemnitor's knowledge, information and belief, has there been issued, any notice, notification, demand, request for information, citation, summons or order in any way relating to any actual, alleged or potential violation or liability arising under Environmental Laws; and

(i) Neither the Property, nor to the best of Indemnitor's knowledge, information and belief, any property to which Borrower has, in connection with the maintenance or operation of the Property, directly or indirectly transported or arranged for the transportation of any Hazardous Substances is listed or, to the best of Indemnitor's knowledge, information and belief, proposed for listing on the National Priorities List promulgated pursuant to CERCLA, is contained in the Comprehensive Environmental Response, Compensation, and Liability                      System ("CERCLIS") or on any similar federal or state database or list of sites requiring environmental investigation or clean-up.

3. Covenants of Indemnitor.

(a) Indemnitor shall comply with all applicable Environmental Laws. Indemnitor shall keep or cause the Property to be kept free from Hazardous Substances (except those substances used by Borrower or tenants of space in the Improvements in the ordinary course of their respective businesses, in compliance with all Environmental Laws and where such could not reasonably be expected to give rise to liability under Environmental Laws) and except in compliance with all Environmental Laws, Indemnitor shall not install or use any underground storage tanks. Indemnitor shall expressly prohibit the use, generation, handling, storage, production, processing and disposal of Hazardous Substances by all tenants of space in the Improvements in quantities or conditions that would violate or give rise to any obligation to take remedial or other action under any applicable Environmental Laws. Without limiting the generality of the foregoing, during the term of this Agreement, Indemnitor shall not install in the Improvements or permit to be installed in the Improvements any asbestos or asbestos-containing materials.

(b) Indemnitor shall immediately notify Lender should Indemnitor, or either of them, become aware of (i) the actual or potential existence of any Hazardous Substances on the Property, other than those occurring in the ordinary course of Borrower's business or the business of tenants of space in the Improvements and which do not violate, or would not otherwise give rise to liability under Environmental Laws, (ii) any direct or indirect violation of, or other exposure to liability under, any Environmental Laws, (iii) any lien, action or notice affecting the Property or Borrower resulting from any violation or alleged violation of or liability or alleged liability under any Environmental Laws, (iv) the institution of any investigation, inquiry or proceeding concerning Borrower or the Property pursuant to any Environmental Laws

or otherwise relating to Hazardous Substances, or (v) the discovery of any occurrence, condition or state of facts which would render any representation or warranty contained in this Agreement or in any Loan Document incorrect in any respect. Immediately upon receipt of same, Indemnitor, or either of them, shall deliver to Lender copies of any and all requests for information, complaints, citations, summonses, orders, notices, reports or other communications, documents or instruments in any way relating to any actual, alleged or potential violation or liability of any nature whatsoever arising under Environmental Laws and relating to the Property or to Borrower. Indemnitor shall remedy or cause to be remedied in a timely manner (and in any event within the time period permitted by applicable Environmental Laws) any violation of Environmental Laws or any condition that could give rise to liability under Environmental Laws. Without limiting the foregoing, Indemnitor shall, promptly and regardless of the source of the contamination or threat to the environment or human health, at its own expense, take all actions as shall be necessary or prudent, for the clean-up of any and all portions of the Property or other affected property, including, without limitation, all investigative, monitoring, removal, containment and remedial actions in accordance with all applicable Environmental Laws (and in all events in a manner satisfactory to Lender), and shall further pay or cause to be paid, at no expense to Lender, all clean-up, administrative and enforcement costs of applicable governmental agencies which may be asserted against Indemnitor or the Property.

(c) Upon the request of Lender, at any time and from time to time after the occurrence of a default under this Agreement or an Event of Default under any of the other Loan Documents or at such other time as Lender has reasonable grounds to believe that Hazardous Substances are or have been released, stored or disposed of on or around the Property or that the Property may be in violation of Environmental Laws, Indemnitor shall perform or cause to be performed, at Indemnitor's sole expense and in scope, form and substance satisfactory to Lender, an inspection or audit of the Property prepared by a hydrogeologist or environmental engineer or other appropriate consultant approved by Lender indicating the presence or absence of Hazardous Substances on the Property, the compliance or non-compliance status of the Property and the operations conducted thereon with applicable Environmental Laws, or an inspection or audit of the Property prepared by an engineering or consulting firm approved by Lender indicating the presence or absence of friable asbestos or substances containing asbestos or lead on the Property, including sampling and testing of soil, surface water, ground water, air inside or outside of building, and building components. If Indemnitor fails to provide reports of such inspection or audit within thirty (30) days after such request, Lender may order the same, and Indemnitor hereby grants to Lender access to the Property and an irrevocable license to undertake such inspection or audit. The cost of such inspection or audit shall be included in Costs and shall be paid by Indemnitor in accordance with the terms of Section 4(c) hereof.

(d) If, prior to the date hereof, it was determined that the Property contains Lead Based Paint, the assessment report describing the location and condition of the Lead Based Paint (a "Lead Based Paint Report") is attached hereto and made a part hereof as Exhibit B. If, at any time hereafter, Lead Based Paint is suspected of being present on the Property, Indemnitor agrees, at its sole cost and expense and within twenty (20) days thereafter, to cause

to be prepared a Lead Based Paint Report prepared by an expert, and in form, scope and substance, acceptable to Lender.

(e) Indemnitor agrees that if it has been, or if at any time hereafter it is, determined that the Property contains Lead Based Paint, on or before thirty (30) days following (i) the date hereof, if such determination was made prior to the date hereof or (ii) such determination, if such determination is hereafter made, as applicable, Indemnitor shall, at its sole cost and expense, develop and implement, and thereafter diligently and continuously carry out (or cause to be developed and implemented and thereafter diligently and continually to be carried out), an operations, abatement and maintenance plan for the Lead Based Paint on the Property, which plan shall be prepared by an expert, and be in form, scope and substance, acceptable to Lender (together with any plan attached hereto as Exhibit C, the "O&M Plan"). Compliance with the O&M Plan shall require or be deemed to require, without limitation, the proper preparation and maintenance of all records, papers and forms required under the Environmental Laws.

(f) Indemnitor shall maintain, and shall cause Borrower and Lake Yale to maintain, full observance with all corporate formalities and shall operate their businesses and affairs, in such a manner as to avoid the assertion of any claims based on "veil-piercing," "alter ego," fraudulent transfer, successor liability, derivative liability, or any other claim based on which any Indemnitor could be held liable for any liability of any other indemnitor (except for the execution and observance of the terms and conditions of this Agreement).

#### 4. Indemnification Procedures.

(a) If any action shall be brought against Lender based upon any of the matters for which Lender is indemnified hereunder, Lender shall notify Indemnitor in writing thereof and Indemnitor shall promptly assume the defense thereof, including, without limitation, the employment of counsel acceptable to Lender and the negotiation of any settlement; provided, however, that any failure of Lender to notify Indemnitor of such matter shall not impair or reduce the obligations of Indemnitor hereunder. Lender shall have the right, at the expense of Indemnitor (which expense shall be included in Costs), to employ separate counsel in any such action and to participate in the defense thereof. In the event Indemnitor shall fail to discharge or undertake to defend Lender against any claim, loss or liability for which Lender is indemnified hereunder, Lender may, at its sole option and election, defend or settle such claim, loss or liability. The liability of Indemnitor to Lender hereunder shall be conclusively established by such settlement, provided such settlement is made in good faith, the amount of such liability to include both the settlement consideration and the costs and expenses, including, without limitation, reasonable attorney's fees and disbursements, incurred by Lender in effecting such settlement. In such event, such settlement consideration, costs and expenses shall be included in Costs and Indemnitor shall pay the same as hereinafter provided. Lender's good faith in any such settlement shall be conclusively established if the settlement is made on the advice of independent legal counsel for Lender.

(b) Indemnitor shall not, without the prior written consent of Lender: (i) settle or compromise any action, suit, proceeding or claim or consent to the entry of any judgment that does not include as an unconditional term thereof the delivery by the claimant or plaintiff to Lender of a full and complete written release of Lender (in form, scope and substance satisfactory to Lender in its sole discretion) from all liability in respect of such action, suit, proceeding or claim and a dismissal with prejudice of such action, suit, proceeding or claim; or (ii) settle or compromise any action, suit, proceeding or claim in any manner that may adversely affect Lender (including, without limitation, Lender's reputation) or obligate Lender to pay any sum or perform any obligation as determined by Lender in its sole discretion.

(c) All Costs shall be immediately reimbursable to Lender when and as incurred and, in the event of any litigation, claim or other proceeding, without any requirement of waiting for the ultimate outcome of such litigation, claim or other proceeding, and Indemnitor shall pay to Lender any and all Costs within ten (10) days after written notice from Lender itemizing the amounts thereof incurred to the date of such notice. In addition to any other remedy available for the failure of Indemnitor to periodically pay such Costs, such Costs, if not paid within said ten-day period, shall bear interest at the Default Interest Rate (as defined in the Note) and such costs and interest shall be additional indebtedness of Borrower secured by the Mortgage and by the other Loan Documents securing all or part of the Loan.

5. Reinstatement of Obligations. If at any time all or any part of any payment made by Indemnitor or received by Lender from Indemnitor under or with respect to this Agreement is or must be rescinded or returned for any reason whatsoever (including, but not limited to, the insolvency, bankruptcy or reorganization of Indemnitor), then the obligations of Indemnitor hereunder shall, to the extent of the payment rescinded or returned, be deemed to have continued in existence, notwithstanding such previous payment made by Indemnitor, or receipt of payment by Lender, and the obligations of Indemnitor hereunder shall continue to be effective or be reinstated, as the case may be, as to such payment, all as though such previous payment by Indemnitor had never been made.

6. Waivers by Indemnitor. To the extent permitted by law, Indemnitor hereby waives and agrees not to assert or take advantage of:

(a) Any right to require Lender to proceed against any other person or to proceed against or exhaust any security held by Lender at any time or to pursue any other remedy in Lender's power or under any other agreement before proceeding against Indemnitor hereunder;

(b) Any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of Lender to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(c) Demand, presentment for payment, notice of nonpayment, protest, notice of protest and all other notices of any kind, or the lack of any thereof, including, without limiting the generality of the foregoing, notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of Lender, any endorser or creditor of either Indemnitor or any other person whomsoever under this or any other instrument in connection with any obligation or evidence of indebtedness held by Lender;

(d) Any defense based upon an election of remedies by Lender;

(e) Any right or claim of right to cause a marshaling of the assets of either Indemnitor or Borrower;

(f) Any principle or provision of law, statutory or otherwise, which is or might be in conflict with the terms and provisions of this Agreement;

(g) Any duty on the part of Lender to disclose to Indemnitor any facts Lender may now or hereafter know about the Property, regardless of whether Lender has reason to believe that any such facts materially increase the risk beyond that which Indemnitor intend to assume or has reason to believe that such facts are unknown to Indemnitor or has a reasonable opportunity to communicate such facts to Indemnitor, it being understood and agreed that Indemnitor are fully responsible for being and keeping informed of the condition of the Property and of any and all circumstances bearing on the risk that liability may be incurred by Indemnitor hereunder;

(h) Any lack of notice of disposition or of manner of disposition of any collateral for the Loan;

(i) Any invalidity, irregularity or unenforceability, in whole or in part, of any one or more of the Loan Documents;

(j) Any lack of commercial reasonableness in dealing with the collateral for the Loan;

(k) Any deficiencies in the collateral for the Loan or any deficiency in the ability of Lender to collect or to obtain performance from any persons or entities now or hereafter liable for the payment and performance of any obligation hereby guaranteed;

(l) An assertion or claim that the automatic stay provided by 11 U.S.C. §362 (arising upon the voluntary or involuntary bankruptcy proceeding of Borrower) or any other stay provided under any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, shall operate or be interpreted to stay, interdict, condition, reduce or inhibit the ability of Lender to enforce any of its rights, whether now or hereafter required, which Lender may have against Principal, if any, or the collateral for the Loan;

(m) Any modifications of the Loan Documents or any obligation of Borrower relating to the Loan by operation of law or by action of any court, whether pursuant to Title 11 of the United States Code, as amended, or any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, or otherwise; and

(n) Any action, occurrence, event or matter consented to by Indemnitor under Section 7(h) hereof, under any other provision hereof, or otherwise.

7. General Provisions.

(a) Fully Recourse. All of the terms and provisions of this Agreement are recourse obligations of Indemnitor and not restricted by any limitation on personal liability provided in any of the other Loan Documents or limited to any collateral securing any of the obligations under this Agreement, it being the intent of Lender to create separate obligations of Indemnitor hereunder which can be enforced against Indemnitor without regard to the existence of the Mortgage or other Loan Documents or the liens or security interests created therein.

(b) Right to Indemnification Not Affected by Knowledge. Lender's right to defense, indemnification, payment of costs or other remedies based on this Agreement shall not be diminished or affected in any way by any investigation conducted by Lender or other knowledge acquired (or capable of being acquired) in any way by Lender at any time.

(c) Survival. This Agreement shall be deemed to be continuing in nature and shall remain in full force and effect and shall survive the payment of the indebtedness evidenced and secured by the Loan Documents and the exercise of any remedy by Lender under the Mortgage or any of the other Loan Documents, including, without limitation, any foreclosure or deed in lieu thereof, even if, as a part of such remedy, the Loan is paid or satisfied in full.

(d) No Subrogation; No Recourse Against Lender. Notwithstanding the satisfaction by Principal of any liability hereunder, Principal shall not have any right of subrogation, contribution, reimbursement or indemnity whatsoever or any right of recourse to or with respect to the assets or property of Borrower or to any collateral for the Loan. In connection with the foregoing, Principal expressly waives any and all rights of subrogation to Lender against Borrower, and Principal hereby waives any rights to enforce any remedy which Lender may have against Borrower and any right to participate in any collateral for the Loan. In addition to and without in any way limiting the foregoing, Principal hereby subordinates any and all indebtedness of Borrower now or hereafter owed to Principal to all indebtedness of Borrower to Lender, and agrees with Lender that Principal shall not demand or accept any payment of principal or interest from Borrower, shall not claim any offset or other reduction of Principal's obligations hereunder because of any such indebtedness and shall not take any action to obtain any of the collateral securing the Loan. Further, neither Indemnitor shall have any right of recourse against Lender by reason of any action Lender may take or omit to take under the provisions of this Agreement or under the provisions of any of the Loan Documents.

(e) Reservation of Rights. Nothing contained in this Agreement shall prevent or in any way diminish or interfere with any rights or remedies, including, without limitation, the right to contribution or cost recovery, which Lender may have against Indemnitor or any other party under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (codified at Title 42 U.S.C. §9601 et seq.), as it may be amended from time to time, or any other applicable federal, state or local laws, all such rights being hereby expressly reserved.

(f) Financial Statements. Indemnitor hereby agrees, as a material inducement to Lender to make the Loan to Borrower, to furnish to Lender promptly upon demand by Lender current and dated financial statements, certified by or on behalf of Indemnitor, detailing the assets and liabilities of Indemnitor, in form and substance acceptable to Lender. Indemnitor hereby warrants and represents that any and all balance sheets, net worth statements and other financial data which have heretofore been given or may hereafter be given to Lender with respect to Indemnitor did or will at the time of such delivery fairly and accurately present the financial condition of said Indemnitor.

(g) Rights Cumulative; Payments. Lender's rights under this Agreement shall be in addition to all rights of Lender under the Note, the Mortgage and the other Loan Documents. **FURTHER, PAYMENTS MADE BY INDEMNITOR UNDER THIS AGREEMENT SHALL NOT REDUCE IN ANY RESPECT BORROWER'S OBLIGATIONS AND LIABILITIES UNDER THE NOTE, THE MORTGAGE OR THE OTHER LOAN DOCUMENTS EXCEPT WITH RESPECT TO, AND TO THE EXTENT OF, BORROWER'S OBLIGATION AND LIABILITY FOR THE PAYMENT MADE BY INDEMNITOR.**

(h) No Limitation on Liability. Indemnitor hereby consents and agrees that Lender may at any time and from time to time without further consent from Indemnitor do any of the following events, and the liability of Indemnitor under this Agreement shall be unconditional and absolute and shall in no way be impaired or limited by any of the following events, whether occurring with or without notice to Indemnitor or with or without consideration: (i) any extensions of time for performance required by any of the Loan Documents or extension or renewal of the Note; (ii) any sale, assignment or foreclosure of the Note, the Mortgage or any of the other Loan Documents or any sale or transfer of the Property; (iii) any change in the composition of Borrower, including, without limitation, the withdrawal or removal of Indemnitor from any current or future position of ownership, management or control of Borrower; (iv) the accuracy or inaccuracy of the representations and warranties made by Indemnitor herein or by Borrower in any of the Loan Documents; (v) the release of Borrower or of any other person or entity from performance or observance of any of the agreements, covenants, terms or conditions contained in any of the Loan Documents by operation of law, Lender's voluntary act or otherwise; (vi) the release or substitution in whole or in part of any security for the Loan; (vii) Lender's failure to record the Mortgage or to file any financing statement (or Lender's improper recording or filing thereof) or to otherwise perfect, protect, secure or insure any lien or security interest given as security for the Loan; (viii) the modification of the terms of any one or more of the Loan Documents; or (ix) the taking or failure to take any action of any type

whatsoever. No such action which Lender shall take or fail to take in connection with the Loan Documents or any collateral for the Loan, nor any course of dealing with Borrower or any other person, shall limit, impair or release Indemnitor's obligations hereunder, affect this Agreement in any way or afford Indemnitor any recourse against Lender. Nothing contained in this Section shall be construed to require Lender to take or refrain from taking any action referred to herein.

(i) Entire Agreement; Amendment; Severability. This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes (except as to the Mortgage) all prior agreements, whether written or oral, between the parties respecting such matters. Any amendments or modifications hereto, in order to be effective, shall be in writing and executed by the parties hereto. A determination that any provision of this Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Agreement to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

(j) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED WITHOUT REGARD TO ITS CONFLICTS OF LAWS RULES.

(k) Binding Effect; Waiver of Acceptance. This Agreement shall bind each Indemnitor and the heirs, personal representatives, successors and assigns of each Indemnitor and shall inure to the benefit of Lender and the officers, directors, shareholders, agents and employees of Lender and their respective heirs, personal representatives, successors and assigns. Notwithstanding the foregoing, neither Indemnitor shall assign any of its rights or obligations under this Agreement without the prior written consent of Lender, which consent may be withheld by Lender in its sole discretion. Each Indemnitor hereby waives any acceptance of this Agreement by Lender, and this Agreement shall immediately be binding upon Indemnitor.

(l) Notice. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in person to the intended addressee, or by depositing the same with Federal Express or another reputable private courier service for next business day delivery to the intended addressee at its address set forth on the first page of this Agreement or at such other address as may be designated by such party as herein provided, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the intended addressee at its address set forth on the first page of this Agreement or at such other address as may be designated by such party as herein provided. All notices, demands and requests shall be effective upon such personal delivery, or one (1) business day after being deposited with the private courier service, or two (2) business days after being deposited in the United States mail as required above. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as herein required shall be deemed to be receipt of the notice, demand or request sent.



By giving to the other party hereto at least fifteen (15) days' prior written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

(m) No Waiver; Time of Essence; Business Days. The failure of any party hereto to enforce any right or remedy hereunder, or to promptly enforce any such right or remedy, shall not constitute a waiver thereof nor give rise to any estoppel against such party nor excuse any of the parties hereto from their respective obligations hereunder. Any waiver of such right or remedy must be in writing and signed by the party to be bound. This Agreement is subject to enforcement at law or in equity, including actions for damages or specific performance. Time is of the essence hereof. The term "business day" as used herein shall mean a weekday, Monday through Friday, except a legal holiday or a day on which banking institutions in New York, New York are authorized by law to be closed.

(n) Captions for Convenience. The captions and headings of the sections and paragraphs of this Agreement are for convenience of reference only and shall not be construed in interpreting the provisions hereof.

(o) Reasonable Attorney's Fees. In the event it is necessary for Lender to retain the services of an attorney or any other consultants in order to enforce this Agreement, or any portion thereof, Indemnitor agrees to pay to Lender any and all costs and expenses, including, without limitation, reasonable attorney's fees, incurred by Lender as a result thereof and such costs, fees and expenses shall be included in Costs.

(p) Successive Actions. A separate right of action hereunder shall arise each time Lender acquires knowledge of any matter indemnified by Indemnitor under this Agreement. Separate and successive actions may be brought hereunder to enforce any of the provisions hereof at any time and from time to time. No action hereunder shall preclude any subsequent action, and Indemnitor hereby waives and covenants not to assert any defense in the nature of splitting of causes of action or merger of judgments.

(q) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.

(r) Joint and Several Liability. If Indemnitor consists of more than one person and/or entity, the representations, warranties, covenants and liability of each such persons and/or entities shall be joint and several under this Agreement.

(s) SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL.

(1) EACH INDEMNITOR, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (A) SUBMITS TO PERSONAL JURISDICTION IN THE STATE IN WHICH THE PROPERTY IS LOCATED OVER ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON ARISING FROM OR RELATING TO THIS AGREEMENT, (B) AGREES THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION SITTING IN THE COUNTY AND STATE, IN WHICH THE PROPERTY IS LOCATED, (C) SUBMITS TO THE JURISDICTION OF SUCH COURTS, AND (D) TO THE FULLEST EXTENT PERMITTED BY LAW, AGREES THAT NEITHER OF THEM WILL BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM (BUT NOTHING HEREIN SHALL AFFECT THE RIGHT OF LENDER TO BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM).

(2) EACH INDEMNITOR AND LENDER BY ITS ACCEPTANCE OF THIS AGREEMENT, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS AGREEMENT OR ANY CONDUCT, ACT OR OMISSION OF LENDER OR INDEMNITOR, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS OR ATTORNEYS, OR ANY OTHER PERSON AFFILIATED WITH LENDER OR INDEMNITOR, IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH INDEMNITOR HEREBY CONSENTS AND AGREES TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING ARISING FROM OR RELATING TO THIS AGREEMENT BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID TO INDEMNITOR AT THE ADDRESS SET FORTH HEREINABOVE.

(t) Waiver by Indemnitor. Borrower and Principal covenant and agree that upon the commencement of a voluntary or involuntary bankruptcy proceeding by or against Borrower, neither Borrower nor Principal shall seek a supplemental stay or otherwise seek, pursuant to 11 U.S.C. §105 or any other provision of Title 11 United States Code, as amended, or any other debtor relief law (whether statutory, common law, case law, or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, to stay, interdict, condition, reduce or inhibit the ability of Lender to enforce any rights of Lender against Principal by virtue of this Agreement or otherwise.

(u) SPECIFIC NOTICE. IT IS EXPRESSLY AGREED AND UNDERSTOOD THAT THIS AGREEMENT INCLUDES INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION


BY INDEMNITOR OF LENDER FROM CLAIMS OR LOSSES ARISING AS A RESULT OF LENDER'S OWN NEGLIGENCE.

(v) Secondary Market. Lender may sell, transfer and deliver the Loan Documents to one or more investors in the secondary mortgage market. In connection with such sale, Lender may retain or assign responsibility for servicing the Loan or may delegate some or all of such responsibility and/or obligations to a servicer, including, but not limited to, any subservicer or master servicer, on behalf of the investors. All references to Lender herein shall refer to and include, without limitation, any such servicer, to the extent applicable.

IN WITNESS WHEREOF, Indemnitor has executed this Agreement as of the day and year first written above.

BORROWER:

SANDPIPER MOBILE MANOR ASSOCIATES,  
L.L.C., a Michigan limited liability company


By:   
Name: Peter Beer  
Title: Managing Member

LAKE YALE:

\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Its:

PRINCIPAL:

  
Peter Beer

  
Benedetto Sorrentino

  
Thomas Barnett

IN WITNESS WHEREOF, Indemntor has executed this Agreement as of the day and year first written above.


BORROWER:

SANDPIPER MOBILE MANOR ASSOCIATES,  
L.L.C., a Michigan limited liability company

By: \_\_\_\_\_  
Name: Peter Beer  
Title: Managing Member

LAKE YALE:

LAKE YALE TREATMENT ASSOCIATES, INC.  
A Michigan corporation

By: \_\_\_\_\_  
  
Name: Peter Beer  
Its: President

PRINCIPAL:

\_\_\_\_\_  
Peter Beer

\_\_\_\_\_  
Benedetto Sorrentino

\_\_\_\_\_  
Thomas Barnett

EXHIBIT A

Legal Description

Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shoreline of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida

MANAGER'S CONSENT AND SUBORDINATION  
OF MANAGEMENT AGREEMENT

THIS MANAGER'S CONSENT AND SUBORDINATION OF  
MANAGEMENT AGREEMENT (this "Agreement") , dated as of October 26, 1998, made  
by Bloch Organization ("Manager").

W I T N E S S E T H

WHEREAS, SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., a Michigan limited liability company desires to borrow from TransAtlantic Capital Company, L.L.C. ("Lender"), the sum of \$2,000,000.00 which indebtedness shall be evidenced by a certain Promissory Note (the "Note") made by Borrower payable to the order of Lender;

WHEREAS, the indebtedness to be evidenced by the Note (the "Loan") shall be secured, in part, by a Mortgage or Deed of Trust and Security Agreement, dated as of the date hereof (the "Mortgage"), made by Borrower for the benefit of Lender (Lender, and any successor thereof and/or assignee of the Note and the Mortgage, are hereinafter referred to as "Mortgagee"), which Mortgage shall cover Borrower's interest in the real property situated in Lake County, Florida as more particularly described therein (the "Property"); and

WHEREAS, Lender requires, as a condition to Lender's funding of the Loan, that Manager execute and deliver this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Mortgagee to fund the Loan, Manager hereby represents, warrants, covenants and agrees for the benefit of Mortgagee as follows:

1. Definitions. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Mortgage.
2. Manager's Representations. Manager warrants and represents to Mortgagee, as of the date hereof, that the following are true and correct:
  - 2.1 Manager has agreed to act as manager of the Property pursuant to the Management Agreement dated October 22, 1998 between Borrower and Manager (the "Management Agreement"). Manager has delivered a true, correct and complete copy of the Management Agreement to Mortgagee.
  - 2.2 The entire agreement between Manager and Borrower for the management of the Property is evidenced by the Management Agreement.
  - 2.3 The Management Agreement constitutes the valid and binding agreement of Manager, enforceable in accordance with its terms, and Manager

has full authority under all state and local laws and regulations to perform all of its obligations under the Management Agreement.

2.4 Borrower is not in default in the performance of any of its obligations under the Management Agreement and all payments and fees required to be paid by Borrower to Manager thereunder have been paid to the date hereof.

3. Manager's Agreements. Notwithstanding any terms of the Management Agreement to the contrary, Manager hereby consents to and covenants and agrees as follows:

3.1 No Termination of Management Agreement. Manager shall not terminate the Management Agreement without first obtaining Mortgagee's written consent. Notwithstanding the foregoing, Manager shall have the right to terminate the Management Agreement for default by Borrower with respect to non-payment of the management fee due thereunder or any costs of operating the Property in accordance with the Management Agreement by giving Mortgagee sixty (60) days' prior written notice of such termination. In the event Mortgagee (or Borrower) shall cure such non-payment default in the aforesaid sixty (60) day period, then any termination notice related to such cause shall be of no further force or effect.

3.2 Subordination of Management Agreement to Loan and Lien of Mortgage. The rights of Manager to receive any management fees, incentive fees or other compensation, reimbursement of costs and expenses or other payments in consideration for its management services for the Property shall be and remain subordinate in all respects to Lender's rights to receive payments under the Loan Documents. The Management Agreement and any and all liens, rights and interests (whether choate or inchoate and including, without limitation, all mechanic's and materialmen's liens under applicable law) owed, claimed or held by Manager in and to the Property, are and shall be in all respects subordinate and inferior to the liens and security interests created or to be created for the benefit of Mortgagee, its successors and assigns, and securing the repayment of the Note including, without limitation, those created under the Mortgage covering, among other things, the Property, and filed or to be filed of record in the public records maintained for the recording of mortgages in the jurisdiction where the Property is located, and all renewals, extensions, increases, supplements, amendments, modifications and replacements thereof.

3.3 Mortgagee's Right to Terminate. Upon the occurrence and following an Event of Default under the Mortgage, Manager shall, at the request of Mortgagee, its successors or assigns, continue performance, on behalf of Mortgagee, or its successors or assigns, of all of Manager's obligations under the terms of the Management Agreement with respect to the Property,



provided Mortgagee sends to Manager the notice set forth in paragraph 3.7 hereof and performs or causes to be performed the obligations of Borrower to Manager under the Management Agreement first accruing or arising from and after, and solely with respect to the period commencing upon, the effective date of such notice. Upon, or at any time after an Event of Default under the Mortgage, Mortgagee shall have the right to terminate the Management Agreement by giving Manager thirty (30) days' prior written notice of such termination, in which event the Management Agreement shall terminate effective upon the end of such thirty (30) day period and Mortgagee shall neither be bound nor obligated to perform the covenants and obligations of Borrower under the Management Agreement. Without limiting Manager's rights against Borrower, Manager agrees not to look to Mortgagee for payment of any accrued but unpaid management fees, incentive fees or other compensation, reimbursement of costs and expenses or other payments in consideration of its management services relating to the Property accruing prior to the effective date of the notice set forth in paragraph 3.7 hereof or those which may occur prior to any notice of termination if such notice is prior to the notice set forth in paragraph 3.7 hereof.

3.4 Further Assurances. Manager further agrees to (i) execute such affidavits and certificates as Mortgagee shall reasonably require to further evidence the agreements herein contained, (ii) on request from Mortgagee, furnish Mortgagee with copies of such information as Borrower is entitled to receive under the Management Agreement, and (iii) cooperate with Mortgagee's representative in any inspection of all or any portion of the Property.

3.5 Assignment of Leases and Rents. Manager acknowledges that, as further security for the Note, Borrower is executing and delivering to Mortgagee an Assignment of Leases and Rents, dated as of the date hereof (the "Assignment"), assigning to Mortgagee, among other things, all of Borrower's right, title and interest in and to all of the leases now or hereafter affecting the Property. Manager hereby agrees that upon receipt of written notice from Mortgagee that an Event of Default exists under the Mortgage, Manager shall thereafter deliver to Mortgagee, for application in accordance with the terms and conditions of the Assignment, all proceeds relating to the Property then being held by Manager, and all rents, security deposits (upon compliance with any requirements of applicable law with respect thereto) and other proceeds received from and after the date thereof from any and all tenants or other parties occupying or using any portion of the Property.

3.6 No Joint Venture. Mortgagee has no obligation to Manager with respect to the Mortgage or the other Loan Documents and Manager shall not be a third party beneficiary with respect to any of Mortgagee's obligations to Borrower set forth in the other Loan Documents. The relationship of

Mortgagee to Borrower is one of a creditor to a debtor, and Mortgagee is not a joint venturer or partner of Borrower.

3.7 Mortgagee Not Obligated Under Management Agreement. Manager further agrees that nothing herein shall impose upon Mortgagee any obligation for payment or performance under the Management Agreement in favor of Manager, unless Mortgagee notifies Manager in writing after an Event of Default under the Mortgage that (i) Mortgagee has elected to assert Borrower's rights under the Management Agreement with respect to the Property and assume its obligations thereunder and (ii) Mortgagee agrees to pay Manager the sums due Manager with respect to the Property under the terms of the Management Agreement from and after the effective date of Mortgagee's notice to Manager.

3.8 Mortgagee's Reliance on Representations. Manager has executed this Agreement in order to induce Mortgagee to fund the Loan and with full knowledge that Mortgagee shall rely upon the representations, warranties and agreements herein contained, and that but for this instrument and the representations, warranties and agreements therein contained, Mortgagee would not take such action.

3.9 Governed by Loan Documents. Manager agrees that until such time as the Mortgage shall be released in accordance with its terms and those of the other Loan Documents, Manager shall not take or fail to take any action that would cause Borrower to be in breach of any of Borrower's obligations under the Mortgage with respect to the Property, notwithstanding anything contained in the Management Agreement to the contrary. Manager confirms that it has received copies of the Mortgage and other Loan Documents and is fully familiar with the terms thereof.

3.10 Successors and Assigns. Manager understands that Lender intends to assign this Agreement and the Note, the Mortgage, the Assignment and the other Loan Documents. Manager agrees that this Agreement and Manager's obligations hereunder shall be binding upon Manager and its successors and assigns and shall inure to the benefit of Lender and its successors and assigns including, without limitation, any parties to whom Lender's interest in the Note and the Mortgage are assigned.

4. Borrower Consent. Borrower has joined herein to evidence its consent to the terms, covenants and conditions contained in this Agreement.

6

Name of Person or Organization  
Remitting Fees:

Mark Capaldi

Mark Capaldi

Preparer's Name and Business

Telephone Number: 248-593-8400

( )

### INFORMATION AND INSTRUCTIONS

1. The articles of organization cannot be filed until this form, or a comparable document, is submitted.
  2. Submit one original of this document. Upon filing, the document will be added to the records of the Corporation and Securities Bureau. The original will be returned to the address you enter in the box on the front as evidence of filing.  
  
Since this document will be maintained on optical disc media, it is important that the filing be legible. Documents with poor black and white contrast, or otherwise illegible, will be rejected.
  3. This document is to be used pursuant to the provisions of Act 23, P.A. of 1993, by two or more persons for the purpose of forming a domestic limited liability company.
- i. Article I - The name of a domestic limited liability company is required to contain one of the following words or abbreviations: "Limited Liability Company", "L.L.C.", or "L.C."
  - ii. Article II - Under section 203(b) of the Act, it is sufficient to state substantially, alone or with specifically enumerated purposes, that the limited liability company is formed to engage in any activity within the purposes for which a limited liability company may be formed under the Act.
  - iii. Article III - The term of existence of the limited liability company must be stated.
  - iv. Article IV - A post office box may not be designated as the address of the registered office.
- This document is effective on the date endorsed "Filed" by the Bureau. A later effective date, no more than 90 days after the date of delivery, may be stated as an additional article.

The articles must be signed in ink by two or more of the persons who will be members. Names of person signing shall be stated beneath their signatures.

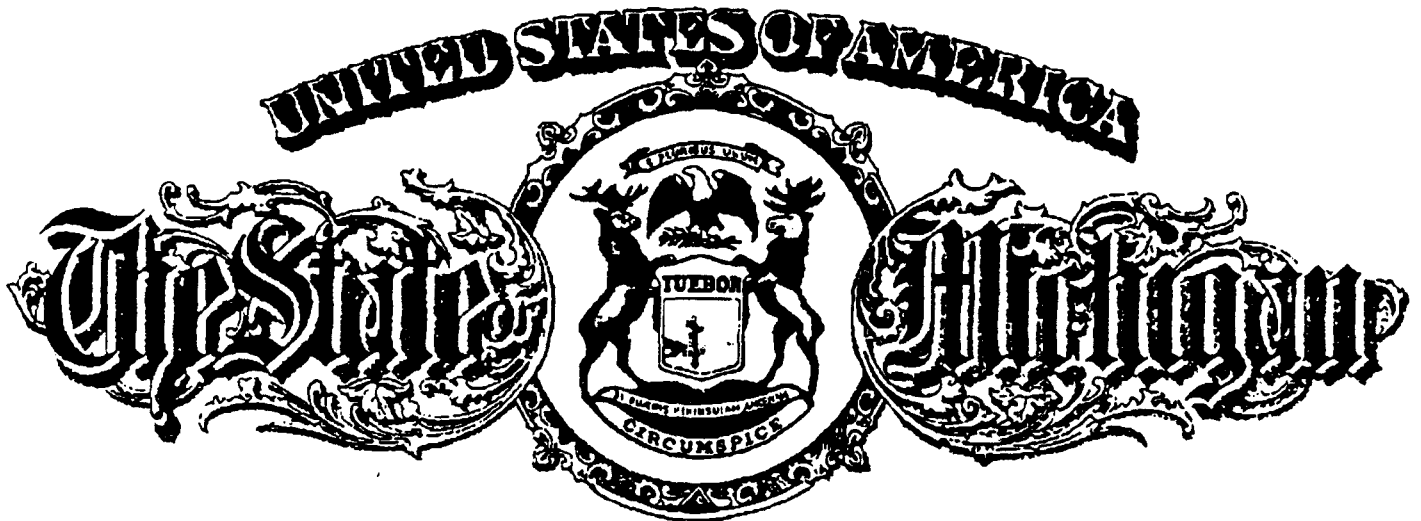
**FEES:** Make remittance payable to the State of Michigan. Include limited liability company name on check or money order. Nonrefundable filing fee ..... \$50.00

Mail form and fee to:

The office is located at:

Michigan Department of Commerce  
Corporation and Securities Bureau  
Corporation Division  
P.O. Box 30054  
Lansing, MI 48909-7554

6546 Mercantile Way  
Lansing, MI 48910  
(517) 334-6302



**Michigan Department of Consumer and Industry Services**

**Lansing, Michigan**

*This is to Certify That*

**SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.**

*a Michigan limited liability company, filed Articles of Organization in this office on October 15, 1998.*

*I FURTHER CERTIFY that the Articles are in full force and effect as of this date, and a Certificate of Dissolution has not been filed.*

*This certificate is in due form, made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.*

*In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 20th day of October, 1998.*

*Julie Coll*


*, Director*

171L 0393416

*Corporation, Securities and Land Development Bureau*

**CERTIFICATION**

The foregoing is a true and accurate copy of the Operating Agreement for Sandpiper Mobile Manor Associates, L.L.C., a Michigan limited liability company.

  
\_\_\_\_\_  
Sandpiper Mobile Manor Associates, L.L.C.  
Peter Beer, Managing Member

**OPERATING AGREEMENT**  
for  
**SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.**  
a Michigan limited liability company

This Operating Agreement is made and entered into this day of September, 1998, by and between Peter Beer, Benedetto Sorrentino, Thomas Barnett, Ivan Bloch and Lake Yale, Inc. ("Outside Corporate Member"), which are collectively referred to herein as the "Members"), of Sandpiper Mobile Manor Associates, L.L.C., a Michigan Limited Liability Company (the "Company"), who agree as follows:

**Article I**  
**Organization**

1.1 Formation. The Company has been organized as a Michigan Limited Liability Company pursuant to the Michigan Limited Liability Company Act, being Act No. 23, Public Acts of 1993, by the filing of Articles of Organization (the "Articles") with the State of Michigan Department of Commerce.

1.2 Name. The name of the Company shall be Sandpiper Mobile Manor Associates, L.L.C..

1.3 Purposes. The Company has been formed for the sole purpose of owning & operating the Sandpiper Mobile Manor development ("Property"), located in Lake County, Florida. Further, the nature of the business and of the purposes to be conducted and promoted by the limited liability company is to engage solely in the following activities:

A. To acquire from Lake Yale Corporation the Sandpiper Mobile Manor development, located in Lake County, Florida.

B. To own, hold, sell, assign, transfer, operate, mortgage, pledge and otherwise deal with the Property.

C. To exercise all powers enumerated in the Michigan Limited Liability Company Act, necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

1.4 Duration. The Company shall continue in existence for the period fixed in the Articles of Organization or until the Company shall be dissolved sooner and its affairs wound up in accordance with the Act and this Operating Agreement.

1.5 Registered Office and Registered Agent. The Registered Office and Resident Agent of the Company shall be as designated in the Articles of Organization or any amendment thereof. The

Registered Office and/or Registered Agent may be changed from time to time. Any such change shall be made in accordance with the Act. If the Resident Agent resigns, the Company shall promptly appoint a successor.

1.6 Limited Liability Company Status. The Members have formed the Company as a single purpose, bankruptcy remote limited liability company pursuant to the Act. The Members specifically intend and agree that the Company not be a partnership (including a limited partnership) or any other venture, but a limited liability company pursuant to the Act.

1.7. Agreement. For and in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Members executing this Operating Agreement hereby agree to the terms and conditions herein, as they may be from time to time amended. It is the express intention of the Members that this Operating Agreement, and any amendments thereto, shall be the sole source of agreement of the parties and, except to the extent a provision of this Operating Agreement expressly incorporates federal income tax rules by reference to sections of the Internal Revenue Code (the "Code") or Regulations thereunder, or is expressly prohibited or ineffective under the Act, this Operating Agreement shall govern, even when inconsistent with, or different than, the provisions of the Act or any other law or rule. To the extent that any provision of this Operating Agreement is prohibited or ineffective under the Act, this Operating Agreement shall be considered amended to the in order to make the agreement effective under the Act.

## **Article II**

### **Books, Records and Accounting**

2.1 Books and Records. The Company shall maintain complete and accurate books and records of the Company's business and affairs as required by the Act and such books and records shall be kept at the Company's Registered Office.

2.2 Fiscal Year; Accounting. The Company's fiscal year shall be the calendar year. The particular accounting methods and principles to be followed by the Company shall be selected by the Managing Member from time to time.

2.3 Reports. The Managing Member shall provide reports concerning the financial condition and results of operation of the Company and the Capital Accounts of the Members to the Members in the time, manner and form as the Managing Member determines. Such reports shall be provided at least annually as soon as practicable after the end of each calendar year and shall include a statement of each Member's share of profits and other items of income, gain, loss, deduction and credit.



2.4 Members' Accounts. Separate capital accounts (the "Capital Accounts") shall be established and maintained by the Company. Each Member's Capital Account shall reflect the Member's capital contributions and increases for the Member's share of any net income or gain of the Company. Each Member's Capital Account shall also reflect decreases for distributions made to the Member and the Member's share of any losses and deductions of the Company.

2.5 Compliance with Section 704(b) of the Code. The provisions of this Article, as they relate to the maintenance of Capital Accounts, are intended, and shall be construed and, if necessary, modified to cause the allocations of profits, losses, income, gain and credit pursuant to Article IV, to have substantial economic effect under the Regulations promulgated under Section 704(b) of the Code, in light of the distributions and capital contributions made pursuant to this Operating Agreement. Notwithstanding anything to the contrary, this Operating Agreement shall not be construed to create a deficit restoration obligation or to otherwise personally obligate any Member beyond the terms and conditions of this Operating Agreement.

### **Article III Capital Contributions**

3.1 Initial Commitments and Contributions. Each Member shall make the Capital Contribution described on the attached Exhibit A. If no time for contribution is specified, the Capital Contribution shall be made upon the filing of the Articles of Organization. Any additional Member (other than an assignee of a membership interest who has been admitted as a Member) shall make the Capital Contribution set forth in an Admission Agreement. No interest shall accrue on any Capital Contribution and no Member shall have any right to withdraw or to be repaid any Capital Contribution, except as provided in this Operating Agreement.

3.2 Additional Contributions. In addition to the initial Capital Contributions, the Managing Member may determine from time to time that additional capital contributions are needed to enable the Company to conduct its business and affairs. Upon making such a determination, notice thereof shall be given to all Members in writing at least ten (10) business days prior to the date on which a meeting of the Members shall be required to contribute such additional capital contributions in the amounts so determined as necessary. Such notice shall describe, in reasonable detail, the purposes and uses of such additional capital, the amounts of additional capital proposed and the date by which payment of the additional capital is required to be paid.

3.3 Failure to Contribute. If any such Member fails to make a capital contribution when required, the Company may, in addition

to the other rights and remedies the Company may have under the Act or applicable law, take such enforcement action (including the commencement and prosecution of court proceedings) against such Member as the Managing Member considers appropriate. Moreover, the remaining Members may elect to contribute the amount of such required capital themselves according to the respective Membership Interests. In such an event, the remaining Members shall be entitled to treat such amounts as an extension of credit to such defaulting Member, payable upon demand, with interest accruing thereon at the rate of ten percent (10%) per annum until paid, all of which shall be secured by such defaulting Member's interest in the Company, each member who may hereafter grant such extension of credit, a security interest in such defaulting Member's interest in the Company.

#### **Article IV Allocations and Distributions**

##### **4.1 Allocations.**

A. Except as may be required by the Internal Revenue Code, as amended, or this Operating Agreement, net profits, net losses and other items of income, gain, loss, deduction and credit of the Company shall be allocated among the Members in accordance with their Membership Interests as set forth on Exhibit A.

##### **4.2 Distributions.**

A. The Managing Member may make distributions to the Members from time to time. Distributions may be made only after the Managing Member determines in his reasonable judgment that the Company has sufficient cash on hand which exceeds the current and the anticipated costs and expenses of the Company to fulfill its business purposes (including operating expenses, debt service, acquisitions, reserves and mandatory distributions, if any) and only after a majority vote of the Members approving such distributions. All distributions shall be made to the Members in accordance with their Membership Interests. Distributions shall be in cash or property or both, as determined by the Managing Member. No distribution shall be declared or made if, after said distribution, the Company would not be able to pay its debts as they become due in the usual course of business or the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed if the Company were to be dissolved at the time of the distribution to satisfy the rights of Members upon dissolution pursuant to Section 9.2 hereof, to receive positive capital accounts and the satisfaction of liabilities for distributions that are superior to the rights of the Members receiving the distribution.

**4.3 Annual Distributions.** Subject to the limitations contained in the Act, the Company shall make pro rata annual distributions of cash to the Members in sufficient amount to pay federal, state

and local income taxes on the income that passes through to the Members under Internal Revenue Code ("IRC") 702, reduced by any tax benefits produced by losses, deductions and credits that pass through under IRC 702. Each Member is assumed to be taxable at the highest marginal federal, state and local income tax rates applicable to married individuals filing separate tax returns and to fully utilize any losses, deductions and credits passed through under IRC 702. If the Company fails to make a required distribution, after thirty (30) days written notice to the Company, any Member is free to seek a court order compelling such distribution.

## **Article V Disposition of Membership Interests**

5.1 General. Every sale, assignment, transfer, exchange, mortgage, pledge, grant, hypothecation or other disposition of any Membership Interest shall be made only upon compliance with this Article. No Membership Interest shall be disposed of if the disposition would cause a termination of the Company under the Internal Revenue Code, as amended, without compliance with any and all federal and state securities laws and regulations; and unless the assignee of the Membership Interest provides the Company with the information and agreements that the Managing Member may require in connection with such disposition. Any attempted disposition of a Membership Interest in violation of this Article is null and void.

5.2 Permitted Dispositions. Subject to the provisions of this Article, a Member may assign a Membership Interest in the Company in whole or in part. The assignment of a Membership Interest does not itself entitle the assignee to participate in the management and affairs of the Company or to become a Member. Such assignee is only entitled to receive, to the extent assigned, the distributions the assigning Member would otherwise be entitled to receive.

5.3 Admission of Substitute Members. An assignee of a Membership Interest shall be admitted as a Substitute Member and shall be entitled to all the rights and powers of the assignor only if the other Members unanimously consent. If admitted, the Substitute Member has, to the extent assigned, all of the rights and powers, and is subject to all of the restrictions and liabilities of a Member.

5.4 Right of First Refusal Option. A Membership Interest in the Company can only be transferred if the Member desiring to make the transfer first offers all of his or her Membership Interest for purchase to the other Members. The offer must be in writing and state the offeror's name and address, the Membership Interest offered, the offering price and the other terms of the offer. A person desiring to transfer a Membership Interest in the Company pursuant to this Section shall deliver the offer to the other

Members and, by doing so, offers to sell the Membership Interest covered by the offer to the other Members for the same price and the same terms as that set forth in the offer. A written notice of acceptance of the offer by the other Members shall be delivered to the offering Member within forty-five (45) days after receiving the offer or the offer shall be deemed to be rejected. If the offer to purchase a Membership Interest pursuant to this Section is rejected, the offering Member shall be entitled to sell to a third party, subject to the requirements of this Section, all (but not less than all) of the offered Membership Interest in accordance with the terms of the Member's offer to the other Members for a period of ninety (90) days after the other Members reject the offer.

#### **Article VI Meetings of Members**

6.1 Voting. All Members shall be entitled to vote on any matter submitted to a vote of the Members or upon any matter which any Member demands a vote. By way of illustration and not limited to, the Members shall have the right to vote on all of the following: (a) the dissolution of the Company pursuant to Paragraph 9.1(c) of this Operating Agreement; (b) an amendment to the Articles of Organization; or (c) the sale, exchange, lease or other transfer of all or substantially all of the assets of the Company other than in the ordinary course of business.

When acting on matters subject to the vote of the Members, notwithstanding that the limited liability company is not then insolvent, the Members and the Outside Member shall take into account the interest of the limited liability company's creditors, as well as those of the Members.

6.2 Required Vote. Unless a greater vote is required by the Act or the Articles of Organization, the affirmative vote or consent of a majority of the Members entitled to vote or consent on such matter shall be required.

6.3 Meetings. An annual meeting of Members shall be held at such place, on such date and at such time as the Managing Member shall determine for the transaction of such business as may properly come before the meeting. Special meetings of Members for any proper purpose or purposes may be called at any time by the Managing Member or the holders of at least ten percent (10%) of the Membership Interests of all Members. The Company shall deliver or mail written notice stating the date, time, place and purposes of any meeting to each Member entitled to vote at the meeting. Such notice shall be given not less than then (10) nor more than sixty (60) days before the date of the meeting. All meetings of Members shall be presided over by a Chairperson who shall be designated by the Managing Member.

6.4 Consent. Any action required or permitted to be taken at an annual or special meeting of the Members may be taken without a meeting, without prior notice, and without a vote, if consents in writing, setting forth the action so taken, are signed by the Members having not less than a minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Membership Interests entitled to vote on the action were present and voted. Every written consent shall bear the date and signature of each Member who signs the consent. Prompt notice of the taking of action without a meeting by less than unanimous written consent shall be given to all Members who have not consented in writing to such action.

## Article VII Management

7.1 Management of Business. The Company shall be managed by the Managing Member who shall be designated by a resolution of the Members. The terms, duties, compensation and benefits, if any, of the Managing Member shall be determined by the Members. The Managing Member shall serve at the will and pleasure of the Members. The initial Manager shall be Peter Beer and he shall receive from the Company full reimbursement for any all costs and expenditures which he might advance on behalf of the Company.

7.2 General Powers of Managing Member. Except as may otherwise be provided in this Operating Agreement, the ordinary and usual decisions concerning the business and affairs of the Company shall be made by the Managing Member. The Members hereby agree that only the Managing Member and authorized agents of the Company shall have the authority to bind the Company. Any Member who takes such action to bind the Company shall indemnify the Company for any costs or damages incurred by the Company as a result of the unauthorized action of such Member. The Managing Member has the power, on behalf of the Company, to do all things necessary or convenient to carry out the business and affairs of the Company, including, without limitation: (a) the institution, prosecution and defense of any proceeding in the Company's name; (b) the purchase, receipt, lease or other acquisition, ownership, holding, improvement, use and other dealing with the Property; (c) the entering into contracts to operate the Property; (d) the conduct of the Company's business, the establishment of Company offices and the exercise of the powers of the Company within or outside the State of Michigan; (e) the appointment of employees and agents of the Company, the defining of their duties, the establishment of their compensation; (f) the payment of pensions and establishment of pension plans, pension trusts, profit sharing plans and benefit and incentive plans for all or any of the current or former Members, employees and agents of the Company; (g) the making of donations to the public welfare or for religious, charitable, scientific, literary or educational purposes; (h) the payment or donation, or any other act that

further the business and affairs of the Company; (i) the payment of compensation or additional compensation to any or all Members and employees on account of services previously rendered to the Company, whether or not an agreement to pay such compensation was made before such services were rendered; (j) the purchase of insurance on the life of any of its Members or employees for the benefit of the Company; (k) the indemnification of Members or any other person pursuant to the provisions of this Operating Agreement.

7.3 Limitations. Notwithstanding the foregoing and any other provision contained in this Operating Agreement to the contrary, no act shall be taken, sum expended, decision made, obligation incurred or power exercised by the Managing Member on behalf of the Company except by the unanimous consent of all Members with respect to: (a) any significant and material purchase, receipt, lease, sale, exchange or other acquisition or disposition of any real or personal property, inventory or business; (b) the sale of all or substantially all of the assets and property of the Company; (c) any loan, mortgage, grant of security interest, pledge or encumbrance upon any of the assets and property of the Company, or the modification of any loan, mortgage, security interest or pledge; (d) any merger; (e) any amendment or re-statement of the Articles of Organization or this Operating Agreement; (f) any matter which could result in a change in the amount or character of the Company's capital; (g) any change in the character of the business and affairs of the Company; (h) the commission of any act which would make it impossible or difficult for the Company to carry on its ordinary business and affairs; (i) the setting or the modification of the compensation and/or salary of the Manager; or (j) any act that would contravene any provision of the Articles of Organization, this Operating Agreement or the Act.

Notwithstanding the foregoing, the limited liability company shall only incur indebtedness in an amount necessary to acquire, operate and maintain the Property. For so long as any mortgage lien in favor of TransAtlantic Capital Company, L.L.C. or its successors or assigns (the "First Mortgage") exists on any portion of the Property, the limited liability company shall not incur, assume, or guaranty any other indebtedness. The limited liability company shall not dissolve or liquidate, or consolidate or merge with or into any other entity, or convey or transfer its properties and assets substantially as an entirety or transfer any of its beneficial interests to any entity. For so long as the First Mortgage exists on any portion of the Property, the limited liability company will not voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of all of the Members of the limited liability company. For so long as the First Mortgage exists on any portion of the Property, no material amendment to these Articles of

Organization may be made without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property.

7.4 Standard of Care; Liability. The Managing Member shall discharge his or her duties in good faith with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner he or she reasonably believes to be in the best interests of the Company. The Managing Member shall not be liable for any monetary damages to the Company for any breach of such duties except for receipt of a financial benefit to which the Managing Member is not entitled; voting for or assenting to a distribution to Members in violation of this Operating Agreement or the Act; or a knowing violation of the law.

7.5 Indemnification. The Company shall indemnify the Members, Managing Member, employees and agents for all costs, losses, liabilities and damages paid or accrued by such Member, Managing Member, employee or agent in connection with the business of the Company, to the fullest extent provided or allowed by the laws of the State of Michigan.

Any indemnification of the limited liability company's Members shall be fully subordinated to any obligations respecting the Property (including, without limitation, the First Mortgage) and such indemnification shall not constitute a claim against the limited liability company in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations.

7.6 Separateness Covenants. For so long as the First Mortgage exists on any portion of the Property, in order to preserve and ensure its separate and distinct identity, in addition to the other provisions set forth in these Articles of Organization, the limited liability company shall conduct its affairs in accordance with the following provisions:

- A. It shall establish and maintain an office through which its business shall be conducted separate and apart from that of any of its Members or affiliates or, if it shares office space with its parent or any affiliate, it shall allocate fairly and reasonably any overhead for shared office space.
- B. It shall maintain records and books of account separate from those of any Member or affiliate.
- C. It shall observe all limited liability company formalities.
- D. It shall not commingle assets with those of any Member or affiliate.

- E. It shall conduct its own business in its own name.
- F. It shall maintain financial statements separate from any Member or affiliate.
- G. It shall pay any liabilities out of its own funds, including salaries of any employees, not funds of any Member or affiliate.
- H. It shall maintain an arm's length relationship with any member or affiliate.
- I. It shall not guarantee or become obligated for the debts of any other entity, including any Member or affiliate, or hold out its credit as being available to satisfy the obligations of others.
- J. It shall use stationary, invoices and checks separate from any Member or affiliate.
- K. It shall not pledge its assets for the benefit of any other entity, including any Member or affiliate.
- L. It shall hold itself out as a entity separate from any Member or affiliate.
- M. It shall have a corporate managing member which shall be organized to be a single purpose, "bankruptcy remote" entity with organizational documents substantially similar to the organizational documents of the current corporate managing member of the limited liability company.

For purposes of this Paragraph 7.6, the following terms shall have the following meanings:

"affiliate" means any person controlling or controlled by or under common control with the limited liability company including, without limitation, (i) any person who has a familial relationship, by blood, marriage or otherwise with any partner or employee of the limited liability company, or any affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from this limited liability company, or any affiliate. For purposes of this definition, "control" when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unin-



corporated organization, or government or any agency or political subdivision thereof.

**Article VIII**  
**Exculpation of Liability**

8.1 Exculpation of Liability. Unless otherwise provided by law or expressly assumed, a person who is a Member or Managing Member, or both, shall not be liable for the acts, debts or liabilities of the Company.

**Article IX**  
**Dissolution and Winding Up**

9.1 Dissolution. The Company shall dissolve and its affairs shall be wound up on the first to occur of the following events: (a) at any time specified in the Articles of Organization of this Operating Agreement; (b) upon the happening of any event specified in the Articles of Organization or this Operating Agreement; (c) by the unanimous consent of all of the Members; (d) upon the death, withdrawal, or expulsion or the occurrence of any other event that terminates the continued membership of a Member.

To the extent permissible under applicable federal and state tax law, the vote of a majority-in-interest of the remaining Members is sufficient to continue the existence of the limited liability company. If such vote is not obtained, for so long as the First Mortgage exists on any portion of the Property, the limited liability shall not liquidate the Property without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property. Such holders may continue to exercise all of their rights under the existing security agreements or mortgages until the debt underlying the First Mortgage has been paid in full or otherwise completely discharged.

9.2 Winding Up. Upon dissolution, the Company shall cease carrying on its business and affairs and shall commence the winding up of the Company's business and affairs and complete the winding up as soon as practicable. Upon the winding up of the Company, the assets of the Company shall be distributed first to creditors, to the extent permitted by law, in satisfaction of Company debts, liabilities and obligations and then to Members and former Members, first, in accordance with their positive Capital Account balances (taking into account all Capital Account adjustments for the Company's taxable year in which the liquidation occurs), second, in satisfaction of liabilities for distributions, and, then, in accordance with their Membership Interests. Such proceeds shall be paid to such Members within ninety (90) days after the date of winding up.

9.3 Option to Purchase on Dissolution. If, at the time of dissolution, only one (1) of the Members is providing services to the Company in an executive capacity, the membership interest

owned by the other Member shall be offered for sale at the price and other terms specified herein. The Member who is providing services to the Company shall have a first option to purchase some or all of the membership interests in question. This option must be exercised within sixty (60) days after the occurrence of the event causing dissolution. The value of the membership interest to be purchased pursuant hereto shall be the net fair market value as of the last day of the month in which the dissolution event occurred as determined by the mutual agreement of the selling Member (or his successor in interest) (the "Selling Member") and the purchaser or purchasers (the "Purchaser"). If the Selling Member and the Purchaser cannot agree on the value of the membership interest within fifteen (15) days of the date the Purchaser has given notice that the Purchaser is exercising his or her option hereunder, then the fair market value of the membership interest shall be determined by appraisal as follows:

The Selling Member and the Purchaser shall each appoint, at their own cost, within fifteen (15) days following the expiration of the time for mutual agreement has expired a qualified appraiser ("Qualified Appraiser") who shall be a professional appraiser or certified public accountant qualified by experience and ability to appraise the membership interest of a closely held business. If both Qualified Appraisers agree on the fair market value of the membership, their opinion, which shall be submitted in writing, shall be conclusive and binding on both the Selling Member and the Purchaser. If only one (1) of the parties appoints a Qualified Appraiser, that appraiser's written opinion on the fair market value of the membership interest in question shall be conclusive and binding on both the Selling Member and the Purchaser. If the two (2) Qualified Appraisers disagree on the fair market value of the membership interest, they shall appoint a third Qualified Appraiser mutually acceptable to them, and the written opinion of the third Qualified Appraiser, whose fees and expenses shall be divided equally between the Selling Member and the Purchaser, shall be conclusive and binding as to the fair market value of the membership interest to be purchased. Provided, however, that if the value of the membership interest in question found by the third Qualified Appraiser is greater than the highest of the first two (2) appraisals, the highest of the first two (2) appraisals shall constitute the "appraised value" of the membership interest and if their value as found by the third appraiser is less than the lowest of the first two (2) appraisals, the lower of the first two (2) appraisals shall constitute the "appraised value" of the membership interest.

#### **Article X Amendment**

10.1 Operating Agreement May Be Modified. This Operating Agreement may be modified as provided in this Article X (as the same may, from time to time, be amended). No Member or Managing

Member shall have any vested rights in this Operating Agreement which may not be modified through an amendment to this Operating Agreement.

10.2 Amendment or Modification of Operating Agreement. This Operating Agreement may be amended or modified from time to time only by a written instrument adopted by the Managing Member and executed by a majority of the Members.

10.3 Rights of Creditors under Operating Agreement. This Operating Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members and their successors and assignees. This Operating Agreement is expressly not intended for the benefit of any creditor of the Company or any other person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under this Operating Agreement or any agreement between the Company and any Member with respect to any capital contribution or otherwise.

#### Article XI Miscellaneous Provisions

11.1 Terms. Nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person or persons, firm or corporation may in the context require.

11.2 Article Headings. The Article headings contained in this Operating Agreement have been inserted only as a matter of convenience and for reference, and in no way shall be construed to define, limit or describe the scope or intent of any provision of this Operating Agreement.

11.3 Counterparts. This Operating Agreement may be executed in several counterparts, each of which will be deemed an original but all of which will constitute one and the same.

11.4 Entire Agreement. This Operating Agreement constitutes the entire agreement among the parties hereto and contains all of the agreements among said parties with respect to the subject matter hereof. This Operating Agreement supersedes any and all other agreements, either oral or written, between the parties with respect to the subject matter hereof.

11.5 Severability. The invalidity or unenforceability of any particular provision of this Operating Agreement shall not affect the other provisions hereof, and this Operating Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

11.6 Notices. Any notice permitted or required under this Operating Agreement shall be conveyed to the party at the address reflected in this Operating Agreement and will be deemed to have been given, when deposited in the United States mail, postage prepaid, or when delivered in person, or by courier or by facsimile transmission.

11.7 Binding Effect. Subject to the provisions of this Operating Agreement relating to transferability, this Operating Agreement will be binding upon and shall inure to the benefit of the parties and their respective distributee, heirs, successors and assigns.

11.8 Governing Law. This Operating Agreement is being executed and delivered in the State of Michigan and shall be governed by, construed and enforced in accordance with the laws of the State of Michigan.

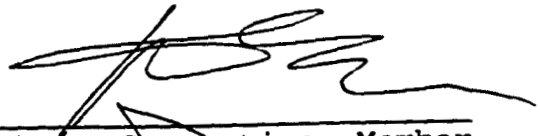
The Members have executed this Operating Agreement as of the date first written above.



Peter Beer, Managing Member



Thomas Barnett, Member



Benedetto Sorrentino, Member



Ivan Bloch, Member

\_\_\_\_\_  
Lake Yale, Inc.  
By: Peter Beer, President  
Outside Corporate Member

**EXHIBIT "A"**

**MEMBERSHIP INTERESTS**

<u>Name</u>	<u>Type of Interest</u>	<u>Initial Contribution</u>	<u>% Interest</u>
Peter Beer	Managing Member	\$210,000.00	29 1/4%
Benedetto Sorrentino	Member	\$210,000.00	29 1/4%
Thomas Barnett	Member	\$210,000.00	29 1/4%
Ivan Bloch	Member	\$ 70,000.00	9 1/4%
Lake Yale, Inc. Outside Corporate Member		\$ 1.00	1 %

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the application by SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., a Michigan limited liability company, authorized to transact business within the state of Florida on October 22, 1998, as shown by the records of this office.

The document number of this limited liability company is M98000001234.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Twenty-second day of October, 1998



CR2EO22 (2-95)

A handwritten signature in cursive script that reads "Sandra B. Northam".

Sandra B. Northam  
Secretary of State

**APPLICATION BY FOREIGN LIMITED LIABILITY COMPANY FOR AUTHORIZATION TO  
TRANSACT BUSINESS IN FLORIDA**

*IN COMPLIANCE WITH SECTION 608.503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN LIMITED LIABILITY COMPANY TO TRANSACT BUSINESS IN THE STATE OF FLORIDA:*

1. Sandpiper Mobile Manor Associates, L.L.C.  
(Name of foreign limited liability company must end with the words "limited company" or their abbreviation "L.C." if not so contained in the name at present.)

2. Michigan  
(Jurisdiction under the law of which foreign limited liability company is organized)

3. \_\_\_\_\_  
(FEI number, if applicable)

4. October 15, 1998  
(Date of Organization)

5. Perpetual  
(Duration: Year limited liability company will cease to exist or "perpetual")

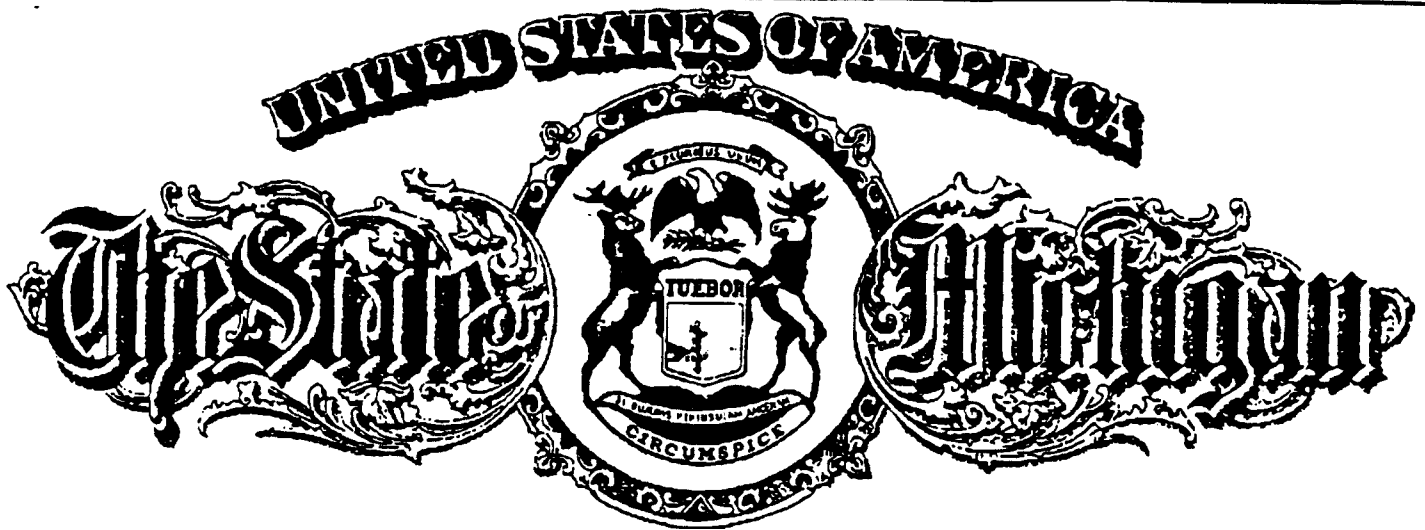
6. Upon qualification  
(Date first transacted business in Florida. (See sections 608.501, 608.502. and 817.155, F.S.))

7. 18700 W. 10 Mile  
Southfield, MI 48075  
(Street address of principal office)

8. List name, title, and business address of each managing member[MGRM] or manager[MGR]who will manage the foreign limited liability company in Florida: (attach additional page if necessary)

NAME & ADDRESS:	TITLE:	NAME & ADDRESS:	TITLE:
<u>Peter Beer</u>	<u>MGRM</u>	_____	_____
<u>18700 W. 10 Mile</u>		_____	
<u>Southfield, MI 48075</u>		_____	
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

FILED  
 SECRETARY OF STATE  
 DIVISION OF CORPORATIONS  
 99 OCT 22 PM 3:34



**Michigan Department of Consumer and Industry Services**

Lansing, Michigan

*This is to Certify That*

**SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.**

*a Michigan limited liability company, filed Articles of Organization in this office on October 15, 1998.*

*I FURTHER CERTIFY that the Articles are in full force and effect as of this date, and a Certificate of Dissolution has not been filed.*

*This certificate is in due form, made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.*

98 OCT 22 PM 3:34  
STATE OF MICHIGAN  
DIVISION OF REGISTRATION

*In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 20th day of October, 1998.*

*Julie Croll*

, Director

171L 0393416

Corporation, Securities and Land Development Bureau



**CERTIFICATE OF DESIGNATION OF  
REGISTERED AGENT/REGISTERED OFFICE**

PURSUANT TO THE PROVISIONS OF SECTION 608.415 or 608.507, FLORIDA STATUTES. THE UNDERSIGNED LIMITED LIABILITY COMPANY SUBMITS THE FOLLOWING STATEMENT IN DESIGNATING THE REGISTERED OFFICE/REGISTERED AGENT, IN THE STATE OF FLORIDA.

1. The name of the limited liability company is:

Sandpiper Mobile Manor Associates, LLC

2. The name and address of the registered agent and office is:

David D. Eastman

(Name)

101 South Monroe Street

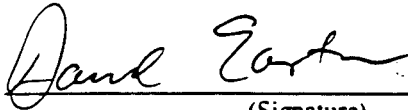
(P.O. Box or Mail Drop Box **NOT** ACCEPTABLE)

Tallahassee, FL 32301

(City/State/Zip)

STATE OF FLORIDA  
DIVISION OF CORPORATIONS  
93 OCT 22 PM 3:34

*Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.*



(Signature)

10-22-98


(Date)

**Filing Fee: \$ 35 for Designation of Registered Agent**

**AFFIDAVIT OF MEMBERSHIP AND CONTRIBUTIONS OF FOREIGN  
LIMITED LIABILITY COMPANY**

The undersigned member or authorized representative of a member of Sandpiper  
Mobile Manor Associates, L.L.C. deposes and says:

- 1) the above named limited liability company has at least two members
  
- 2) the total amount of cash contributed by the member(s) is \$ -0-
  
- 3) if any, the agreed value of property other than cash contributed by member(s) is \$ -0-  
A description of the property is attached and made a part hereto.
  
- 4) the amount of cash or property anticipated to be contributed by member(s) is \$ -0-  
This total includes amounts from 2 and 3 above.
  
- 5) the total amount of cash or property anticipated to be contributed by member(s) is \$ -0-

  
X \_\_\_\_\_  
**Signature of a member or authorized representative of a member.**  
(In accordance with section 608.408(3), Florida Statutes, the execution of this affidavit constitutes an affirmation under the penalties of perjury that the facts stated herein are true.)

Peter Beer, Managing Member

**Filing Fee: \$250.00 for Application and Affidavit**

SECRETARY OF STATE  
DIVISION OF CORPORATE & FINANCIAL SERVICES  
93 OCT 22 PM 3:34

# State of Florida



## Department of State

I certify from the records of this office that SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C. on October 22, 1998, is a Michigan limited liability company authorized to transact business in the State of Florida, qualified on October 22, 1998.

The document number of this limited liability company is M98000001234.

I further certify that said limited liability company has paid all fees and penalties due this office through December 31, 1998, and its status is active.

I further certify that said limited liability company has not filed a Certificate of Withdrawal.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Twenty-second day of October, 1998



CR2EO22 (2-95)

A handwritten signature in cursive script, reading "Sandra B. Northam".

Sandra B. Northam  
Secretary of State

7

## BORROWER'S CLOSING CERTIFICATE

Re: \$2,000,000 Loan ("Loan") from TransAtlantic Capital Company, L.L.C. ("Lender") to Sandpiper Mobile Manor Associates, L.L.C. ("Borrower"); Sandpiper Mobile Manor mobile home park as more particularly described on Exhibit A ("Mortgaged Property").

This Certificate is given to Lender in connection with Lender's disbursement of permanent mortgage funds in the amount of Two Million Dollars (\$2,000,000.00) and it is intended that Lender shall rely upon the contents and accuracy of this Certificate in making the Loan. This Certificate is executed and delivered by Borrower as a material inducement to Lender to close the Loan.

Accordingly, Borrower hereby represents, warrants, certifies and agrees with and to Lender, its successors, assigns and any subsequent holder of the Loan and that certain Promissory Note of even date herewith evidencing the Loan (the "Note"), and secured by the Mortgage or Deed of Trust and Security Agreement (the "Mortgage") and all other documents evidencing, securing, guaranteeing or otherwise relating to the Loan (the Note, the Mortgage and such other documents are collectively referred to herein as the "Loan Documents") as follows:

1. (a) Borrower is a limited liability company duly organized and validly existing under the laws of the State of Michigan and qualified to own its property and conduct its business under the laws of the State of Florida.
- (b) Peter Beer ("Managing Member"), is the sole managing member of Borrower.
- (c) Managing Member, by its execution hereof as the managing member of Borrower, and Borrower, each represent that:
  - (i) the attachments hereto marked Exhibit "B" are true, correct and complete copies of the articles of organization and operating agreement of Borrower, as amended to date;
  - (ii) the organizational documents attached as Exhibit B are in full force and effect.
- (d) All documents necessary and appropriate for the creation and continuation of Borrower, and the conduct of Borrower's business, have been filed with the appropriate authorities, agencies and offices of the State of Florida and County of Lake.

- (e) All filing and recording charges and fees, and all franchise and other taxes, levies and assessments, due and payable through and including the date hereof which are due to the State of Florida or any other authority (whether governmental or otherwise) having jurisdiction over Borrower or the Mortgaged Property have been paid in full to the date hereof.

2. The Loan funds are required to be used and are being used solely for business and commercial purposes and will not be used for any other purpose.

3. Borrower has no present intention to transfer or convey the Mortgaged Property, or any part thereof or interest therein, to any other person or entity or to incur any other debt or financing pertaining thereto.

4. The execution and delivery by Borrower of the Loan Documents will not (a) violate any provision of any indenture, agreement or other instrument to which Borrower is a party or by which it or any of its property is bound; or (b) be in conflict with, result in a breach of, or constitute (with either due notice or lapse of time) a default under, any such indenture, agreement or other instrument; or (c) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Borrower, other than the liens created by the Loan Documents. No action or approval by any third person of the execution and delivery by Borrower of the Loan Documents is required.

5. There is no judgment, decree, order, claim, action, suit or proceeding or investigation, pending or, to the best of Borrower's knowledge, threatened, affecting Borrower, any person or entity directly or indirectly owning an interest in Borrower (an "Interest Holder") or any person or entity guaranteeing all or any part of the Loan or Borrower's obligations under the Loan Documents (a "Guarantor"), or, to the best of Borrower's knowledge, any tenant of the Mortgaged Property, at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau or agency, which either in any one instance or in the aggregate, may (a) result in any material adverse change in the Mortgaged Property, in the Intended Use (hereinafter defined) of the Mortgaged Property, or in the other properties or assets, or in the business, operations or condition, financial or otherwise, of Borrower, any Interest Holder, any tenant, or any Guarantor, or (b) result in any material impairment of the right or ability of Borrower, any Interest Holder, any tenant, or any Guarantor, to carry on its business substantially as now conducted, or (c) result in any material liability on the part of Borrower, any Interest Holder, any tenant, or any Guarantor, or (d) draw into question the validity of the Loan Documents or any one of them or of the Loan or of any action taken or to be taken in connection with the obligations of Borrower or any Guarantor contemplated therein, or (e) be likely to impair materially the ability of Borrower or any Guarantor to perform under the terms of the Loan Documents.

6. All statements, representations and warranties contained in the Loan Documents, the Application (including all exhibits and attachments thereto) submitted by Borrower dated June 30, 1998, and the Loan commitment letter dated September 15, 1998, executed by Borrower and Lender (the "Commitment Letter") or in any writing previously delivered by Borrower, any Interest Holder or any Guarantor to Lender in connection with the Loan are true and correct in all material respects, and all obligations of Borrower, any Interest Holder and the Guarantor(s), and all conditions to Lender's making of the Loan, have been performed and satisfied.

7. The Mortgaged Property has not, in whole or in part, been conveyed, transferred, pledged, assigned or encumbered by Borrower or any other party to secure any indebtedness, any part of which is currently outstanding.

8. Borrower has no knowledge of any fact which would make the appraisal of the Mortgaged Property delivered to Lender with respect to the Loan inaccurate.

9. Borrower has no knowledge of, or information about, any circumstances or conditions with respect to the Mortgage, the Mortgaged Property, Borrower, any tenant of the Mortgaged Property, any space lease of the Mortgaged Property, or Borrower's or any commercial tenant's credit standing or pending litigation or other legal proceedings involving Borrower or otherwise at material variance with any of the certifications, representations and warranties set forth in this Certificate or in the other Loan Documents that could reasonably be expected to adversely affect the current value or marketability of the Mortgaged Property or the Loan.

10. This Certificate, the Loan Documents, or any one of them, or any statement, report, form, or other document furnished or to be furnished by Borrower or any person or entity on behalf of Borrower to Lender pursuant hereto or to the other Loan Documents or in connection with the Loan or the Mortgaged Property contains no untrue statement of fact or omits to state a fact necessary to make the statements contained therein or herein not misleading, and Borrower understands that Lender has relied and will rely on the true, correct and complete nature of such information.

11. Borrower shall notify Lender immediately if Borrower discovers that any certification made by Borrower to Lender in this Certificate or in the other Loan Documents or any information Borrower has furnished to Lender or any other party pursuant hereto or with respect to the Loan or the Loan Documents is or has become incorrect or incomplete in any material respect.

12. Upon the disbursement by Lender of \$ 2,000,000, the Loan will have been fully disbursed and there is no requirement for future advances under the Loan Documents and all requirements in the Commitment Letter and the closing instructions of Lender as to the escrow of funds for the completion of any on-site or off-site improvements have been complied with.

13. There has been no material adverse change, financial or otherwise, in (a) the condition of Borrower, any Interest Holder, any tenant, or any Guarantor, (b) the actual or pro forma operating statements for the Mortgaged Property from the financial statements most recently submitted to Lender by Borrower, any Interest Holder or any Guarantor or any supporting data submitted therewith, and all of the information contained therein is true, complete and correct, or (c) any feature of the Loan from that disclosed to Lender.

14. None of Borrower, any Interest Holder, any Guarantor, or any tenant is, or has ever been, incapacitated or a debtor in any state or federal bankruptcy, reorganization or insolvency proceeding or any other debtor-creditor proceeding or otherwise the subject of any such proceeding, or has ever made an assignment for the benefit of creditors, and Borrower knows of no fact or pending or threatened claim or litigation that might result in the incapacity or insolvency or bankruptcy of Borrower, any Interest Holder, any Guarantor or any tenant.

15. None of Borrower, any Interest Holder, any Guarantor or any officer or person or entity owning, directly or indirectly an interest in any Interest Holder or any Guarantor or any person or entity directly or indirectly exercising any authority over the management of the Borrower or its general partner or managing member or the Mortgaged Property, is, or has ever been, accused or convicted of a crime or, to the best knowledge of Borrower, is, or has any such person ever been, the subject of any investigation relating to the commission of a crime.

16. At the request of Lender, Borrower shall reexecute and redeliver to Lender, this Certificate dated as of the date of such reexecution and redelivery, and include therein the certification by Borrower that (a) no party other than Borrower has advanced funds to Lender for the payment of any amount required by the Loan Documents, except for interest accruing from the date hereof to the date of such reexecution and redelivery, and (b) there is no default, breach, violation or event of acceleration existing under the Loan Documents and no event (other than payments due but not yet delinquent) which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a default, breach, violation or event of acceleration. Lender has not waived any material default, breach, violation or event of acceleration of any of the foregoing, and, pursuant to the terms of the Loan, the Mortgage, the Note or the other Loan Documents, no person or entity other than Lender may declare an event of default or accelerate the indebtedness under the Loan, Mortgage, Note or the other Loan Documents. Borrower is not in default on any debt obligation owed or owing to Lender or any affiliate or correspondent of Lender.

17. (a) Borrower does not know of any facts or circumstances by reason of which any adverse claim to any part of the Mortgaged Property, or to any undivided interest therein, might be set up or made. No person has done, by act or omission, anything, nor does Borrower have knowledge of any fact, which would materially impair the coverage of any title insurance policy issued with respect to the Loan. The Mortgage is a valid and enforceable first lien on the fee estate of the Mortgaged Property, which Mortgaged Property



is free and clear of all encumbrances and liens having priority over the first lien of the Mortgage, except for (a) liens for real estate taxes and special assessments not yet due and payable, and (b) matters of public record set forth in the title commitment insuring the lien of the Mortgage. The Mortgaged Property is free and clear of any mechanics' and materialmen's liens or liens in the nature thereof, there are no rights outstanding that under law could give rise to any such liens, and no notice of any mechanics' or materialmen's lien or lien in the nature thereof, or of any claim or right to any such lien, has been received in connection with the Mortgaged Property and, as of the date of this Certificate, Borrower has no reason to expect the receipt, assertion and/or threatening of any such lien or notice thereof. Neither Borrower nor any party on Borrower's behalf has entered into any contracts or agreements (verbal or written) for the furnishing of labor and materials (including fabricated materials) for use in connection with the construction and/or repair of improvements on the Mortgaged Property except as heretofore disclosed in writing to Lender.

(b) Borrower owns all furniture, fixtures, equipment and other items of personal property described as collateral in the Loan Documents free and clear of all liens, encumbrances, security interests (other than the security interest of Lender), adverse rights, leases, conditional sales contracts or other title retention or security arrangements of any nature whatsoever. All furniture, fixtures, equipment and all other items of personal property described as collateral in the Loan Documents are subject to the lien of the Mortgage and the other Loan Documents, and are subject to a Uniform Commercial Code financing statement filed and/or recorded (or sent for filing and/or recording on the date of the closing of the Loan) in all places necessary to perfect a valid first priority lien thereon.

18. Borrower is the owner and holder of the landlord's interest under every lease for use and occupancy of all or any portion of the related Mortgaged Property (the "Leases"). Borrower has not made any assignment of the landlord's interest in any such Leases or any portion of the rents, additional rents, charges, issues or profits due and payable or to become due and payable under any such Leases (the "Rents"), which assignments are presently outstanding and have priority over the Mortgage or any related Assignment of Leases and Rents given in connection with the Mortgage. An Assignment of Leases and Rents and any security agreement, chattel mortgage or equivalent document related to and delivered in connection with the Loan establishes and creates a valid and enforceable first lien and first priority security interest on the property described therein except as enforceability may be limited by bankruptcy or other laws affecting creditor's rights generally or by the application of the rules of equity.

19. With respect to the Mortgaged Property occupied by tenants under Leases: (a) each such tenant is conducting business or occupying only in that portion of the Mortgaged Property covered by its Lease; (b) no tenant has the benefit of a non-disturbance or similar recognition agreement, or if such agreement exists, there are no circumstances or conditions with respect to such tenant or the applicable Lease that could cause a prudent lender to refuse to grant such agreement; (c) no tenant is more than 29 days delinquent in the payment of rent

nor in default under any material provision of its Lease (except as may be disclosed in the rent roll contained in the Loan Documents); (d) all conditions and obligations on Borrower's part to be fulfilled under the terms of any Lease have been satisfied or fully performed, including, but not limited to, all required tenant improvements, alterations, installations and construction, for which payment has been made in all cases; (e) all Leases are in full force and effect; (f) each Lease provides for payment of rent by check on a monthly basis, no tenant has advanced more than one month's payment under any Lease, and no item payable by any tenant under any Lease has been heretofore prepaid, except for rent currently due or as prorated, prepaid escalations and security deposit; (g) no person or entity affiliated with Borrower is a tenant under any Lease; (h) no offset, defense or claim is available to any tenant against rent payable by such tenant or against any other performance or obligation otherwise due from any tenant under any Lease; and (i) there are no brokers' commissions, finders' fees or other charges payable or to become payable as a result of or in connection with any Lease, the Mortgaged Property or any transaction related thereto.

20. The Mortgaged Property has been constructed and completed in a good and workmanlike manner and is adequate for its intended use as a mobile home park (the "Intended Use"). The Mortgaged Property is being used and occupied for the Intended Use and under applicable law by Borrower and/or the tenants under the Leases.

21. None of the buildings, improvements or appurtenances of the Mortgaged Property creates an encroachment over, across or upon any of the boundary lines, building lines, rights-of-way, or easements thereof, and no buildings or improvements on adjoining land encroach upon the Mortgaged Property.

22. No portion of the Mortgaged Property lies within a federal governmental department, agency or authority designated flood hazard area.

23. All inspections, licenses, permits, consents, permissions, approvals, authorizations and certificates required, whether by law, regulation or insurance standards to be made or issued with respect to the conduct of Borrower's business, the operation of the Mortgaged Property and the use and occupancy of the same, including, but not limited to, certificates of occupancy, sewer permits, building permits and fire underwriter certificates, have been made by or issued by all necessary private parties, the appropriate governmental or quasi-governmental authorities or other authorities having jurisdiction over the Mortgaged Property and/or Borrower, are in full force and effect, and Borrower has not received notification from any such authority that Borrower or the Mortgaged Property is in non-compliance with such laws, regulations or standards, is being used, operated or occupied unlawfully or has failed to have or obtain such inspections, permits, consents, permissions, approvals, authorizations, licenses or certificates, as the case may be. Borrower has not received notice of any violation or failure to conform with any such law, ordinance, regulation, standard, license, permit, consent, permission, approval or certificate. No major improvements or structural alterations have been made to any of the Mortgaged Property after the issuance of a certificate of occupancy or the like with respect thereto.

24. Borrower acknowledges that Lender and its successors and assigns may (a) sell the Mortgage, the Note and the other Loan Documents to one or more investors as a whole loan, (b) participate the Loan to one or more investors, (c) deposit the Mortgage, the Note and the other Loan Documents with a trust, which trust may sell certificates to investors evidencing an ownership interest in the trust assets or (d) otherwise sell the Loan or interest therein to investors (the transactions referred to in clauses (a) through (d) are hereinafter referred to as "Secondary Market Transactions"). Borrower shall cooperate in good faith with Lender in effecting any such Secondary Market Transaction and shall cooperate in good faith to implement all requirements imposed by any rating agency involved in any Secondary Market Transaction including, without limitation, all structural or other changes to the Loan, modifications to any documents evidencing or securing the Loan, delivery of opinions of counsel acceptable to the rating agency and addressing such matters as the rating agency may require; provided, however, that Borrower shall not be required to modify any documents evidencing or securing the Loan which would modify (i) the interest rate payable under the Note, (ii) the stated maturity of the Note, (iii) the amortization of principal of the Note, or (iv) any other material economic term of the Loan. Borrower shall provide such information and documents relating to Borrower, Guarantor, if any, the Mortgaged Property and any tenants of the Mortgaged Property as Lender may reasonably request in connection with a Secondary Market Transaction. Lender shall have the right to provide to prospective investors any information in its possession, including, without limitation, financial statements relating to Borrower, the Guarantor, if any, the Mortgaged Property and any tenant of the Mortgaged Property. Borrower acknowledges that certain information regarding the Loan and the parties thereto and the Mortgaged Property may be included in a private placement memorandum, prospectus or other disclosure documents.

25. Furthermore, Borrower acknowledges that Lender and its successors and assigns may employ one or more agents, employees, designees, contractors, subcontractors, tax escrow services, insurance agents or other person or entity to collect payments and other amounts on the Note, the Mortgage and the other Loan Documents, perform the acts, duties and obligations of Lender thereunder, receive notices, demands and communications, and otherwise perform any act which Lender would perform thereunder. Any such appointment of an agent or designee, delegation of duties, designation of recipient of notices, or other act by Lender shall be by written notice sent to Borrower in accordance with the terms hereof.

26. The representations, warranties, certifications and agreements of Borrower and Managing Member contained herein shall survive the disbursement and closing of the Loan.

Dated: October 26, 1998

SANDPIPER MOBILE MANOR ASSOCIATES,  
L.L.C., a limited liability company

By: 

Name: Peter Beer

Title: Managing Member

MANAGING MEMBER




PETER BEER

STATE OF MICHIGAN )  
 )  
COUNTY OF OAKLAND )

SS:

The foregoing instrument was acknowledged before me this 22 day of October, 1998 by Peter Beer, Managing Member of Sandpiper Mobile Manor Associates, L.L.C., on behalf of said limited liability company.

[SEAL]



Notary Public

NOTARY PUBLIC - OAKLAND COUNTY, MI  
MY COMMISSION EXPIRES 01/10/01

My Commission Expires: \_\_\_\_\_

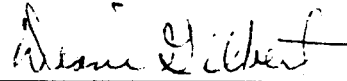
DIANE GILBERT  
NOTARY PUBLIC - OAKLAND COUNTY, MI  
MY COMMISSION EXPIRES 01/10/01

STATE OF MICHIGAN )  
 )  
COUNTY OF OAKLAND )

SS:

The foregoing instrument was acknowledged before me this 22 day of October, 1998 by Peter Beer in his individual capacity.

[SEAL]



\_\_\_\_\_  
Notary Public

DIANE GILBERT  
NOTARY PUBLIC - OAKLAND COUNTY, MI  
MY COMMISSION EXPIRES 01/10/01

My Commission Expires: \_\_\_\_\_

EXHIBIT A

Legal Description

Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shoreline of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida

Exhibit "B"

Organizational Documents of Borrower



MICHIGAN DEPARTMENT OF COMMERCE - CORPORATION AND SECURITIES BUREAU

Received		(FOR BUREAU USE ONLY)

Name Mark Capaldi		
Address 10 West Long Lake, Suite 135		
City Bloomfield Hills, MI	State MI	Zip Code 48304

EFFECTIVE DATE:

Document will be returned to the name and address you enter above

L	C		-			
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**ARTICLES OF ORGANIZATION**  
**For use by Domestic Limited Liability Companies**  
(Please read information and instructions on last page)

Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned execute the following Articles:

**ARTICLE I**

The name of the limited liability company is: Sandpiper Mobile Manor Associates, L.L.C

**ARTICLE II**

The purpose or purposes for which the limited liability company is formed is to engage in any activity within the purposes for which a limited liability company may be formed under the Limited Liability Company Act of Michigan.

(see attached for additional information)

**ARTICLE III**

The duration of the limited liability company is: Fifty (50) years

**ARTICLE IV**

1. The address of the registered office is:

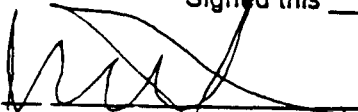
18700 W. 10 Mile Road, Southfield, Michigan 48075

2. The mailing address of the registered office if different than above: n/a


Michigan


3. The name of the resident agent at the registered office is: Peter Beer

Signed this 8th day of October, 1998

By   
Ivan Bloch  
Member

  
Benedetto Sorrentino  
Member

  
Peter Beer  
Managing Member

  
Thomas Barrett  
Member

Lake Yale, Inc., Outside Corporate Member

8

**RECORDED DOCUMENT  
NOT YET RECEIVED**

This Financing Statement is presented to a filing officer for filing pursuant to the Uniform Commercial Code

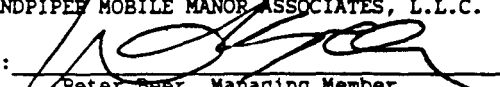
1. Debtor (Last Name First if an individual) Sandpiper Mobile Manor Associates, L.L.C.		1a. Date of Birth or FEIN 38-3435661	
1b. Mailing Address 18700 West Ten Mile Road	1c. City, State Southfield, Michigan	1d. Zip Code 48075	
2. Additional Debtor or Trade Name (Last Name First if an individual)		2a. Date of Birth or FEIN	
2b. Mailing Address	2c. City, State	2d. Zip Code	
3. Secured Party (Last Name First if an individual) TransAtlantic Capital Company, L.L.C.			
3a. Mailing Address 31 East 52nd Street, 10th Floor	3b. City, State New York, New York	3c. Zip Code 10019	
4. Assignee of Secured Party (Last Name First if an individual)			
4a. Mailing Address	4b. City, State	4c. Zip Code	
5. This Financing Statement covers the following types or items of property [Include description of real property on which located and owner of record when required. If more space is required, attach additional sheet(s)].  <p style="text-align: center;">See Exhibits A and B</p>			
6. Check only if Applicable: <input checked="" type="checkbox"/> Products of collateral are also covered. <input checked="" type="checkbox"/> Proceeds of collateral are also covered. <input type="checkbox"/> Debtor is transmitting utility.			
7. Check appropriate box: <input type="checkbox"/> All documentary stamp taxes due and payable or to become due and payable pursuant to s. 201.22 F.S., have been paid. (One box must be marked) <input type="checkbox"/> Florida Documentary Stamp Tax is not required.			
8. In accordance with s. 679.402(2), F.S., this statement is filed without the Debtor's signature to perfect a security interest in collateral: <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state or debtor's location changed to this state. <input type="checkbox"/> which is proceeds of the original collateral described above in which a security interest was perfected. <input type="checkbox"/> as to which the filing has lapsed. Date filed _____ and previous UCC-1 file number _____ <input type="checkbox"/> acquired after a change of name, identity, or corporate structure of the debtor.		9. Number of additional sheets presented: <u>4</u>	
10. Signature(s) of Debtor(s) SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.  By:  Peter Beer, Managing Member		This Space for Use of Filing Officer	
11. Signature(s) of Secured Party or if Assigned, by Assignee(s)			
12. Return Copy to: Name _____ Address _____ Address _____ City, State, Zip _____			

EXHIBIT B TO  
UCC-1 FINANCING STATEMENT BETWEEN  
SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., AS DEBTOR AND  
TRANSATLANTIC CAPITAL COMPANY, L.L.C., AS SECURED PARTY

Description of Collateral

All right, title, interest and estate of Debtor now owned, or hereafter acquired, in and to the following property, rights, interests and estates:

- A. All structures, buildings and improvements of every kind and description now or at any time hereafter located on that certain real property situated in the County of Lake, State of Florida (the "Premises"), more particularly described in Exhibit A attached hereto (the "Improvements");
- B. All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, and other emblements now or hereafter located on the Premises or under or above the same or any part thereof, and all estates, rights, interests and appurtenances, reversions and remainders whatsoever, in any way belonging or appertaining to the Premises, or any part thereof, at law or in equity, whether now owned or hereafter acquired by Debtor;
- C. All water, ditches, wells, reservoirs and drains and all water, ditch, well, reservoir and drainage rights which are appurtenant to, located on, under or above or used in connection with the Premises or the Improvements, or any part thereof, whether now existing or hereafter created or acquired by Debtor;
- D. All minerals, crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above the Premises;
- E. All building materials, supplies and equipment now or hereafter placed on the Premises or in the Improvements;
- F. All furniture, furnishings, fixtures, goods, equipment, inventory or personal property owned by Debtor and now or hereafter located on, attached to or used in and about the Improvements, including, but not limited to, all machines, engines, boilers, dynamos, elevators, stokers, tanks, cabinets, awnings and all appliances, communication, plumbing, heating, air conditioning, lighting, ventilating, refrigerating, disposal and incinerating equipment, and sprinkler and fire and theft protection equipment, and all fixtures and appurtenances thereto, and such other goods and chattels and personal property owned by Debtor as are now or hereafter used or furnished in operating the Improvements, or the activities conducted therein, and all building materials and equipment hereafter situated on or about the Premises or Improvements, and all warranties and guaranties relating thereto, and all additions thereto and substitutions and replacements therefor (exclusive of any of the foregoing owned or leased by tenants of space in the Improvements except to the extent any of the same constitute fixtures) (collectively, the "Equipment");

- G. All leases (including, without limitation, oil, gas and mineral leases), licenses, concessions and occupancy agreements of all or any part of the Premises or the Improvements (each, a "Lease" and collectively, "Leases"), whether written or oral, now or hereafter entered into and all rents, royalties, issues, profits, bonus money, revenue, income, rights and other benefits (collectively, the "Rents and Profits") of the Premises or the Improvements, now or hereafter arising from the use or enjoyment of all or any portion thereof or from any present or future Lease or other agreement pertaining thereto or any of the General Intangibles and all cash or securities deposited to secure performance by the tenants, lessees or licensees (each, a "Tenant" and collectively, "Tenants"), as applicable, of their obligations under any such Leases, whether said cash or securities are to be held until the expiration of the terms of said Leases or applied to one or more of the installments of rent coming due prior to the expiration of said terms, subject, however, to the provisions contained in the Mortgage (as hereinafter defined);
- H. All contracts and agreements now or hereafter entered into covering any part of the Premises or the Improvements (collectively, the "Contracts") and all revenue, income and other benefits thereof, including, without limitation, management agreements, service contracts, maintenance contracts, equipment leases, personal property leases and any contracts or documents relating to construction on any part of the Premises or the Improvements (including all architectural renderings, models, specifications, plans, drawings, surveys, tests, reports, data, bonds and governmental approvals) or to the management or operation of any part of the Premises or the Improvements;
- I. All water taps, sewer taps, certificates of occupancy, permits, licenses, franchises, certificates, consents, approvals and other rights and privileges now or hereafter obtained in connection with the Premises or the Improvements and all present and future warranties and guaranties relating to the Improvements or to any equipment, fixtures, furniture, furnishings, personal property or components of any of the foregoing now or hereafter located or installed on the Premises or the Improvements;
- J. All present and future funds, accounts, instruments, accounts receivable, documents, claims, general intangibles (including, without limitation, trademarks, trade names, service marks and symbols now or hereafter used in connection with any part of the Premises or the Improvements, all names by which the Premises or the Improvements may be operated or known, all rights to carry on business under such names, and all rights, interest and privileges which Debtor has or may have as developer or declarant under any covenants, restrictions or declarations now or hereafter relating to the Premises or the Improvements) (collectively, the "General Intangibles");
- K. All insurance policies or binders now or hereafter relating to the Premises, including any unearned premiums thereon;
- L. All cash funds, deposit accounts and other rights and evidence of rights to cash, now or hereafter created or held by Secured Party pursuant to the Mortgage or any other

of the Loan Documents (as defined in the Mortgage), including, without limitation, all funds now or hereafter on deposit in the Impound Account, the Rent Account, the Payment Reserve, the Replacement Reserve and the Repair and Remediation Reserve (as each such term is defined in the Mortgage) and all notes or chattel paper now or hereafter arising from or by virtue of any transactions related to the Premises or the Improvements;

- M. All present and future monetary deposits given by Debtor to any public or private utility with respect to utility services furnished to any part of the Premises or the Improvements;
- N. All proceeds, products, substitutions and accessions (including claims and demands therefor) of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and
- O. All other or greater rights and interests of every nature in the Premises and the Improvements and in the possession or use thereof and income therefrom, whether now owned or hereafter acquired by Debtor.

This UCC-1 Financing Statement is filed in connection with that certain Mortgage and Security Agreement given by the Debtor for the benefit of the Secured Party (the "Mortgage") covering the fee estate of Debtor in the Premises and intended to be duly recorded in the county in which the Premises is located.

EXHIBIT A

Legal Description


Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shoreline of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida



9

**RECORDED DOCUMENT  
NOT YET RECEIVED**

This Financing Statement is presented to a filing officer for filing pursuant to the Uniform Commercial Code

1. Debtor (Last Name First if an individual) Sandpiper Mobile Manor Associates, L.L.C.		1a. Date of Birth or FEI# 38-3435661	
1b. Mailing Address 18700 West Ten Mile Road		1c. City, State Southfield, Michigan	
		1d. Zip Code 48075	
2. Additional Debtor or Trade Name (Last Name First if an individual)		2a. Date of Birth or FEI#	
2b. Mailing Address		2c. City, State	
		2d. Zip Code	
3. Secured Party (Last Name First if an individual) TransAtlantic Capital Company, L.L.C.			
3a. Mailing Address 31 East 52nd Street, 10th Floor		3b. City, State New York, New York	
		3c. Zip Code 10019	
4. Assignee of Secured Party (Last Name First if an individual)			
4a. Mailing Address		4b. City, State	
		4c. Zip Code	
5. This Financing Statement covers the following types or items or property [include description of real property on which located and owner of record when required. If more space is required, attach additional sheet(s)].  <p style="text-align: center;">See Exhibits A and B</p>			
6. Check only if Applicable: <input checked="" type="checkbox"/> Products of collateral are also covered. <input checked="" type="checkbox"/> Proceeds of collateral are also covered. <input type="checkbox"/> Debtor is transmitting utility.			
7. Check appropriate box: <input type="checkbox"/> All documentary stamp taxes due and payable or to become due and payable pursuant to s. 201.22 F.S., have been paid. (One box must be marked) <input type="checkbox"/> Florida Documentary Stamp Tax is not required.			
8. In accordance with s. 679.402(2), F.S., this statement is filed without the Debtor's signature to perfect a security interest in collateral:		9. Number of additional sheets presented: <u>4</u>	
<input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state or debtor's location changed to this state.		This Space for Use of Filing Officer	
<input type="checkbox"/> which is proceeds of the original collateral described above in which a security interest was perfected.			
<input type="checkbox"/> as to which the filing has lapsed. Date filed _____ and previous UCC-1 file number _____			
<input type="checkbox"/> acquired after a change of name, identity, or corporate structure of the debtor.			
10. Signature(s) of Debtor(s) SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C. By:  Peter Beer, Managing Member			
11. Signature(s) of Secured Party or If Assigned, by Assignee(s)			
12. Return Copy to:			
Name _____			
Address _____			
Address _____			
City, State, Zip _____			

**EXHIBIT B TO  
UCC-1 FINANCING STATEMENT BETWEEN  
SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., AS DEBTOR AND  
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- C. All water, ditches, wells, reservoirs and drains and all water, ditch, well, reservoir and drainage rights which are appurtenant to, located on, under or above or used in connection with the Premises or the Improvements, or any part thereof, whether now existing or hereafter created or acquired by Debtor;
- D. All minerals, crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above the Premises;
- E. All building materials, supplies and equipment now or hereafter placed on the Premises or in the Improvements;
- F. All furniture, furnishings, fixtures, goods, equipment, inventory or personal property owned by Debtor and now or hereafter located on, attached to or used in and about the Improvements, including, but not limited to, all machines, engines, boilers, dynamos, elevators, stokers, tanks, cabinets, awnings and all appliances, communication, plumbing, heating, air conditioning, lighting, ventilating, refrigerating, disposal and incinerating equipment, and sprinkler and fire and theft protection equipment, and all fixtures and appurtenances thereto, and such other goods and chattels and personal property owned by Debtor as are now or hereafter used or furnished in operating the Improvements, or the activities conducted therein, and all building materials and equipment hereafter situated on or about the Premises or Improvements, and all warranties and guaranties relating thereto, and all additions thereto and substitutions and replacements therefor (exclusive of any of the foregoing owned or leased by tenants of space in the Improvements except to the extent any of the same constitute fixtures) (collectively, the "Equipment");

- G. All leases (including, without limitation, oil, gas and mineral leases), licenses, concessions and occupancy agreements of all or any part of the Premises or the Improvements (each, a "Lease" and collectively, "Leases"), whether written or oral, now or hereafter entered into and all rents, royalties, issues, profits, bonus money, revenue, income, rights and other benefits (collectively, the "Rents and Profits") of the Premises or the Improvements, now or hereafter arising from the use or enjoyment of all or any portion thereof or from any present or future Lease or other agreement pertaining thereto or any of the General Intangibles and all cash or securities deposited to secure performance by the tenants, lessees or licensees (each, a "Tenant" and collectively, "Tenants"), as applicable, of their obligations under any such Leases, whether said cash or securities are to be held until the expiration of the terms of said Leases or applied to one or more of the installments of rent coming due prior to the expiration of said terms, subject, however, to the provisions contained in the Mortgage (as hereinafter defined);
- H. All contracts and agreements now or hereafter entered into covering any part of the Premises or the Improvements (collectively, the "Contracts") and all revenue, income and other benefits thereof, including, without limitation, management agreements, service contracts, maintenance contracts, equipment leases, personal property leases and any contracts or documents relating to construction on any part of the Premises or the Improvements (including all architectural renderings, models, specifications, plans, drawings, surveys, tests, reports, data, bonds and governmental approvals) or to the management or operation of any part of the Premises or the Improvements;
- I. All water taps, sewer taps, certificates of occupancy, permits, licenses, franchises, certificates, consents, approvals and other rights and privileges now or hereafter obtained in connection with the Premises or the Improvements and all present and future warranties and guaranties relating to the Improvements or to any equipment, fixtures, furniture, furnishings, personal property or components of any of the foregoing now or hereafter located or installed on the Premises or the Improvements;
- J. All present and future funds, accounts, instruments, accounts receivable, documents, claims, general intangibles (including, without limitation, trademarks, trade names, service marks and symbols now or hereafter used in connection with any part of the Premises or the Improvements, all names by which the Premises or the Improvements may be operated or known, all rights to carry on business under such names, and all rights, interest and privileges which Debtor has or may have as developer or declarant under any covenants, restrictions or declarations now or hereafter relating to the Premises or the Improvements) (collectively, the "General Intangibles");
- K. All insurance policies or binders now or hereafter relating to the Premises, including any unearned premiums thereon;
- L. All cash funds, deposit accounts and other rights and evidence of rights to cash, now or hereafter created or held by Secured Party pursuant to the Mortgage or any other

of the Loan Documents (as defined in the Mortgage), including, without limitation, all funds now or hereafter on deposit in the Impound Account, the Rent Account, the Payment Reserve, the Replacement Reserve and the Repair and Remediation Reserve (as each such term is defined in the Mortgage) and all notes or chattel paper now or hereafter arising from or by virtue of any transactions related to the Premises or the Improvements;

- M. All present and future monetary deposits given by Debtor to any public or private utility with respect to utility services furnished to any part of the Premises or the Improvements;
- N. All proceeds, products, substitutions and accessions (including claims and demands therefor) of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and
- O. All other or greater rights and interests of every nature in the Premises and the Improvements and in the possession or use thereof and income therefrom, whether now owned or hereafter acquired by Debtor.

This UCC-1 Financing Statement is filed in connection with that certain Mortgage and Security Agreement given by the Debtor for the benefit of the Secured Party (the "Mortgage") covering the fee estate of Debtor in the Premises and intended to be duly recorded in the county in which the Premises is located.

EXHIBIT A

Legal Description

Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shoreline of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida

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**CERTIFICATION REGARDING PROPERTY DOCUMENTS  
AND FINANCIAL INFORMATION**

Loan No. TA5907

In connection with a loan made as of the date hereof by **TRANSATLANTIC CAPITAL COMPANY, L.L.C.**, a Delaware limited liability company ("Lender"), to **SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.**, a Michigan limited liability company ("Borrower"), Borrower has of even date secured by a lien on the real property known as Sandpiper Mobile Manor, Eustia, Florida (the "Property") by virtue of that certain Mortgage and Security Agreement executed by Borrower in favor of Lender. Borrower hereby certifies, represents and warrants to Lender that:

1. Leases and Rent Roll. (a) Attached hereto as Exhibit "A" is a true, accurate and complete rental schedule with respect to the Property, (b) none of the leases reflected thereon contain any (i) purchase options or termination provisions, (ii) rights of first refusal to purchase or (iii) other terms with respect to all or any portion of the Property not commonly found in leases for similar properties situated in the area in which the Property is situated or which would adversely affect the security of the Lender's mortgage or deed of trust, as applicable (except as set forth on Exhibit "A"), (c) no concessions of any kind or nature have been given or promised to any of the tenants (except as set forth on Exhibit "A"), and (d) no inducements of any kind or nature have been given or promised to any of the tenants (except as set forth on Exhibit "A"), (e) Borrower has delivered to Lender true and correct copies of all leases, licenses and other occupancy agreements affecting the Property, together with all guaranties there of and all amendments and modifications thereto (collectively the "Leases") and (f) no party, other than Borrower, has any right to use or occupy all or any portion of the Property except pursuant to the Leases.

2. Standard Lease. (a) Attached hereto as Exhibit "B" is a true and correct copy of the standard lease for the Property, (b) no lease currently in effect at the Property materially deviates from the attached standard lease and (c) the standard lease (and all leases currently in effect at the property) is by its terms subordinate to any mortgage on the Property.

3. Management Agreement. (a) Attached hereto as Exhibit "C" is a true, correct and complete copy of that certain Management Agreement dated (the "Management Agreement") between Borrower and The Bloch Organization, and any and all modifications and amendments thereto and (b) the Management Agreement is in full force and effect and has not been otherwise modified or amended.

4. Service Contracts. Attached hereto as Exhibit "D" are true, correct and complete list of all service contracts now in effect to which Borrower or its agent is a party with respect to the operation of the Property, and copies of all such contracts that are not terminable on thirty days notice.

5. Personal Property. (a) Attached hereto as Exhibit "E" is a true, accurate and complete inventory showing the make, model, serial number and location of all machinery, equipment, fixtures, supplies, tools, and personal property used in the management, maintenance and operation of the Property (other than trade fixtures or personal property of space tenants), (b) the items specified on Exhibit "E" constitute all of the machinery, equipment, fixtures, supplies, tools, and personal property required for the proper management, maintenance and operation of the Property and (c) the items listed on Exhibit "E" are owned by the Borrower free and clear of leases, conditional sale contracts and other title retention agreements (except as specified on Exhibit "E").

7. Secured and Unsecured Debt. There is no secured or unsecured debt currently outstanding with respect to which Borrower is, absolutely or contingently, an obligor, other than (i) the Loan and (ii) unsecured obligations representing trade payables and accrued expenses incurred in the ordinary course of operating the Property, which are customarily paid within thirty days.

8. Litigation. No litigation is currently filed or pending (a) against Borrower or directly involving the Property or (b) against any affiliate of Borrower that would have a material adverse effect on Borrower's ability to perform its obligations under the documents evidencing or securing the Loan, except as may be set forth on Exhibit "G" attached hereto.

IN WITNESS WHEREOF, Borrower has executed this certificate under seal and has delivered this certificate to Lender this 26<sup>th</sup> day of October, 1998.

BORROWER:

SANDPIPER MOBILE MANOR ASSOCIATES,  
L.L.C., a Michigan limited liability company

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

Name: Peter Beer

Title: Managing Member

EXHIBIT A  
(SEE ATTACHED)

**CERTIFICATION**

The foregoing is a true and accurate copy of the rent roll for Sandpiper Mobile Manor mobile home park development.



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Sandpiper Mobile Manor Associates, L.L.C.  
Peter Beer, Managing Member

1	Alaks, Ed 107 Lake Shore Circle	<u>Monthly Rent:</u>	\$277.14
2	Appleby, Carlene 1102 Sunset Court	<u>Monthly Rent:</u>	\$174.20
3	Baker, Kenneth 509 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
4	Balkwill, Charles 513 Cardinal	<u>Monthly Rent:</u>	\$174.20
5	Barich, Donna 512 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
6	Barnayzk, Gerald 402 Oak Drive	<u>Monthly Rent:</u>	\$174.20
7	Beall, Thomas 809 Pine Drive	<u>Monthly Rent:</u>	\$174.20
8	Beebe, Gene 709 Flamingo	<u>Monthly Rent:</u>	\$174.20
9	Birchenough, Patrick 613 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
10	Bishop, Barney 1410 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
11	Bracamontes, Angela 803 Pine Drive	<u>Monthly Rent:</u>	\$174.20
12	Bricker, Phyllis 806 Pine Drive	<u>Monthly Rent:</u>	\$174.20
13	Brooks, Lorinda 814 Pine Drive	<u>Monthly Rent:</u>	\$174.20
14	Brown, W. Dudley 307 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
15	Burke, Robert 909 Quail	<u>Monthly Rent:</u>	\$174.20
16	Burman, Glenn 232 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$277.14
17	Burns, Robert 117 Lake Shore Circle	<u>Monthly Rent:</u>	\$277.14
18	Button, Wade 704 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20

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19	Campbell, Calvin 234 N. Lake Shore Drive	<u>Monthly Rent:</u>	<b>\$277.14</b>
20	Carpenter, Bud 412 Oak Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
21	Carpenter, Marie 424 Oak Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
22	Chain, Dorothy 802 Pine Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
23	Chapel, George 302 Pine Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
24	Clauser, John 302 Magnolia Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
25	Coffin, Jim 1407 Azalea Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
26	Coleman, Arthur 310 Magnolia Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
27	Connors, Lillian 2023 Sunset Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
28	Cook, Frank 703 Flamingo Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
29	Cotton, Calvin 315 Magnolia Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
30	Cox, Bette 224 N. Lake Shore Drive	<u>Monthly Rent:</u>	<b>\$277.14</b>
31	Coyle, Gene 614 Sandpiper Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
32	Crane, Milt 619 Sandpiper Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
33	Davis Estate (C. Burns) 109 Lake Shore Drive	<u>Monthly Rent:</u>	<b>\$277.14</b>
34	Dorsett, Don 506 Cardinal Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>
35	Ennis, William 228 N. Lake Shore Drive	<u>Monthly Rent:</u>	<b>\$277.14</b>
36	Eubank, James 813 Pine Drive	<u>Monthly Rent:</u>	<b>\$174.20</b>

37	Faucett, John 208 Lake Shore Drive	<u>Monthly Rent:</u>	\$277.14
38	Fredorchak, Donald 306 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
39	Fox, Gwen 812 Pine Drive	<u>Monthly Rent:</u>	\$174.20
40	Frantz, Lynn 504 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
41	Fredorchak, Donald 306 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
42	Funk, William 710 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20
43	Gage, Rose Marie 427 Oak Drive	<u>Monthly Rent:</u>	\$174.20
44	Garrett, Athleen 413 Oak Drive	<u>Monthly Rent:</u>	\$174.20
45	Garrison, Walter 1102 Sunset Court	<u>Monthly Rent:</u>	\$174.20
46	Gladding, Irene 706 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20
47	Gobbis, Michael 907 Quail Drive	<u>Monthly Rent:</u>	\$174.20
48	Godinsky, Ann 708 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20
49	Goeres, Eleanor 515 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
50	Goldey, Lela 823 Pine Drive	<u>Monthly Rent:</u>	\$174.20
51	Griffis, Chuck 113 Lake Shore Circle	<u>Monthly Rent:</u>	\$174.20
52	Hance, Wiley 508 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
53	Harding, Irma 605 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
54	Heitling, Carol 311 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20

55	Henkel, Rose 612 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
56	Henley, James 405 Oak Drive	<u>Monthly Rent:</u>	\$174.20
57	Henry, James 423 Oak Drive	<u>Monthly Rent:</u>	\$174.20
58	Hermesen, Joseph 702 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20
59	Huller, Don 1303 Oak Court	<u>Monthly Rent:</u>	\$174.20
60	Hulette, Morris 1304 Oak Court	<u>Monthly Rent:</u>	\$174.20
61	Hutchinson, Wayne 401 Oak Drive	<u>Monthly Rent:</u>	\$174.20
62	Jewell, Wanda 1404 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
63	Johnson, Harold 621 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
64	Johnson, Shirley 827 Pine Drive	<u>Monthly Rent:</u>	\$174.20
65	Johnston, Stuart 1402 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
66	Jones, Gwendoline 214 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$277.14
67	Joslyn, Nellis 1014 Sunset Drive	<u>Monthly Rent:</u>	\$174.20
68	Jurgens, Alfred 417 Oak Drive	<u>Monthly Rent:</u>	\$174.20
69	Karaffa, Joseph 608 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
70	Keefe, Emma 618 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
71	Kilsdonk, Robert 712 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20
72	Klock, Airlie 206 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20



73	Kuick, Frank 623 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
74	Lavanne, Donald 1301 Oak Court	<u>Monthly Rent:</u>	\$174.20
75	Leifert, John 602 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
76	Lweis, Leona 1414 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
77	Lisher, Jerry 514 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
78	Lisher, Jerry 511 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
79	Lowe, Vera 419 Oak Drive	<u>Monthly Rent:</u>	\$174.20
80	Lucilio, Nickols 825 Pine Drive	<u>Monthly Rent:</u>	\$174.20
81	Luke, Ed 1408 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
82	Lundwall, Vivan 422 Oak Drive	<u>Monthly Rent:</u>	\$174.20
83	Lytle, Herman 1008 Sunset Drive	<u>Monthly Rent:</u>	\$174.20
84	MacMillian, Thomas 1010 Sunset Court	<u>Monthly Rent:</u>	\$174.20
85	MacMillian, Vincent 822 Pine Drive	<u>Monthly Rent:</u>	\$174.20
86	Mandro, Hank 1003 Sunset Drive	<u>Monthly Rent:</u>	\$174.20
87	Martin, John 204 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
88	Martin, Williams 420 Oak Drive	<u>Monthly Rent:</u>	\$174.20
89	Massio, Paul 818 Pine Drive	<u>Monthly Rent:</u>	\$174.20
90	McGary, Raymond 705 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20

91	McCollum, Ralph 303 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
92	Miller, Laurence 624 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
93	Miller, Mike 230 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
94	Miller, William 119 Lake Shore Circle	<u>Monthly Rent:</u>	\$174.20
95	Moklar, Dorothy 505 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
96	Monnett, Robert 1416 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
97	Morrow, Frank 507 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
98	Morton, Herbert 1302 Oak Court	<u>Monthly Rent:</u>	\$174.20
99	Mullis, Ralph 218 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
100	Mullis, Ralph 315 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
101	Murray, William 622 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
102	Myers, William 620 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
103	Nadon, Robert 410 Oak Drive	<u>Monthly Rent:</u>	\$174.20
104	Nayarkas, Ruth 403 Oak Drive	<u>Monthly Rent:</u>	\$174.20
105	Nichols, William 218 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
106	New, Leroy 228 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
107	Noecker, Kenneth 711 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20
108	Ogden, Bowden 616 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20

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109	Paine, Don 518 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
110	Palmer, Leon 1203 Oak St.	<u>Monthly Rent:</u>	\$174.20
111	Patton, Betty Jean 816 Pine Drive	<u>Monthly Rent:</u>	\$174.20
112	Pelkey, Gladys 810 Pine Drive	<u>Monthly Rent:</u>	\$174.20
113	Pelt, George 811 Pine Drive	<u>Monthly Rent:</u>	\$174.20
114	Pelt, Ralph 304 Magnolia	<u>Monthly Rent:</u>	\$174.20
115	Perreault, Chester 707 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20
116	Plank, William 308 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
117	Post, Kenneth 111 Lake Shore Circle	<u>Monthly Rent:</u>	\$174.20
118	Pryne, Kenneth 701 Flamingo Drive	<u>Monthly Rent:</u>	\$174.20
119	Reading, Katherine 414 Oak St.	<u>Monthly Rent:</u>	\$174.20
120	Reber, Wayne 1413 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
121	Rice, Lucille 406 Oak Drive	<u>Monthly Rent:</u>	\$174.20
122	Richards, James 611 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
123	Robertson, Jimmy 415 Oak Drive	<u>Monthly Rent:</u>	\$174.20
124	Ruddell, Robert 220 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
125	Runge, Harold 212 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
126	Rupert, Beulah 421 Oak Drive	<u>Monthly Rent:</u>	\$174.20

127	Runge, Harold 212 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
128	Sartwell, James 817 Pine Drive	<u>Monthly Rent:</u>	\$174.20
129	Saunders, Judith 1006 Sunset Drive	<u>Monthly Rent:</u>	\$174.20
130	Sayer, William 428 Oak Drive	<u>Monthly Rent:</u>	\$174.20
131	Schwenk, Calvin 518 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
132	Seale, Hasil 316 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
133	Serma, Carl 312 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
134	Shank, Monica 115 Lake Shore Circle	<u>Monthly Rent:</u>	\$174.20
135	Sherwood, Bruce 606 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
136	Shiflet, Stephen 1406 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
137	Sibo, Lucille 309 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
138	Simpson, Evie 210 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20
139	Singhurse, Dolores 615 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
140	Singhurse, Jerry 1005 Sunset Drive	<u>Monthly Rent:</u>	\$174.20
141	Smith, Edwin 314 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
142	Smith, Joseph 510 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
143	Smother, Wallace 821 Pine Drive	<u>Monthly Rent:</u>	\$174.20
144	Sorenson, Donald 610 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20

145	Sproatt, Carl 103 Lake Shore Circle	<u>Monthly Rent:</u>	\$174.20
146	Stergar, Joe 1204 Oak Court	<u>Monthly Rent:</u>	\$174.20
147	Sterling, Margaret 617 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
148	Stevens, Claudie 317 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
149	Strauer, Donald 1405 Azalea Drive	<u>Monthly Rent:</u>	\$174.20
150	Sullivan, Robert 501 Cardinal Drive	<u>Monthly Rent:</u>	\$174.20
151	Sutton, Joseph 425 Oak Drive	<u>Monthly Rent:</u>	\$174.20
152	Tahtinen, Richard 609 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
153	Thompson, Coralie 820 Pine Drive	<u>Monthly Rent:</u>	\$174.20
154	Tipton, Glen 607 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
155	Trump, Chas 409 Oak Drive	<u>Monthly Rent:</u>	\$174.20
156	VanDyke, Fred 902 Quail Drive	<u>Monthly Rent:</u>	\$174.20
157	VanHandel, Wilfred 903 Quail Drive	<u>Monthly Rent:</u>	\$174.20
158	Volk, Fred 604 Sandpiper Drive	<u>Monthly Rent:</u>	\$174.20
159	Wackley, Helen 805 Pine Drive	<u>Monthly Rent:</u>	\$174.20
160	Walsh, Tom 408 Oak Drive	<u>Monthly Rent:</u>	\$174.20
161	Walters, Lewis 319 Magnolia Drive	<u>Monthly Rent:</u>	\$174.20
162	Warmington, Irma 202 N. Lake Shore Drive	<u>Monthly Rent:</u>	\$174.20

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163	Webb, Edwin 819 Pine Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
164	Whitaker, Forrest 911 Quail Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
165	Whitman, Warren 305 Magnolia Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
166	Whitson, John 411 Oak Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
167	Wichser, Walter 808 Pine Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
168	Wildenberg, Raymond 1001 Sunset Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
169	Williams, Jack 105 Lake Shore Circle	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
170	Wise, James 905 Quail Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
171	Witten, Winfred 222 Lake Shore Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
172	Wolf, James 404 Oak Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
173	Wollums, John 407 Oak Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>
174	Wythe, Joseph 416 Oak Drive	<b><u>Monthly Rent:</u></b>	<b>\$174.20</b>

EXHIBIT B  
(SEE ATTACHED)

LOT RENTAL AGREEMENT



**SANDPIPER MOBILE HOME MANOR  
LEESBURG, FLORIDA**

**LOT RENTAL AGREEMENT**

This Lot Rental Agreement between Lake Yale Corporation ("the Park Owner") and \_\_\_\_\_ (the "Homeowner") shall be effective on \_\_\_\_\_ and shall remain in effect for one full year unless terminated earlier as provided in this Agreement. Nonetheless, the first lease year may be a partial year in order to get the expiration and renewal dates of all lot rental agreements to be uniform. The purpose of this Agreement is to describe the unique relationship that exists between two property owners: the Park Owner, which owns the real estate and common-area improvements at Sandpiper Mobile Home Manor (the "Park"), and the Homeowner, who owns a home located in the Park. This Agreement allows the Homeowner to use space \_\_\_\_\_ for the placement of his or her home and allows the Homeowner the use of common area facilities at the Park, subject to lawfully established rules and regulations. Nothing in this Agreement gives the Homeowner a property interest in any part of the Park Owner's real estate; nothing in this Agreement gives the Park Owner any property interest in the Homeowner's home.

1. **BASE RENT.** In consideration for the use of common area facilities and for the use of a place to locate a home, the Homeowner will pay to the Park Owner in advance on the first day of every month \$ \_\_\_\_\_ plus applicable governmental and utility charges without any deduction or offset.

2. **OTHER PAYMENTS.**

Homeowner may also be assessed the following fees:

**Entrance Fee --** This fee is payable by all persons bringing a mobile home into the park. The fee is to defray costs of mailbox as well as impact to sewer, water, roads and other services. The fee is \$ \_\_\_\_\_. (This fee does not apply to the purchaser of a mobile home situated in the park that is offered for sale by a resident of the park).

**Application Fee --** A charge of \$ \_\_\_\_\_ is payable to cover reference, credit checks, and administrative details of approval and the set up of a new resident of the park. This fee is due from both renters and owners applying for residency in the park. This fee will be charged by the park owner, as allowed by law, in qualifying a prospective

tenant of the park. If this fee is determined to be an entrance fee prohibited by Section 723.041, Florida Statutes, it will be refunded.

Excess Resident Fee -- A \$\_\_\_\_\_ per month charge is made for residents in excess of two (2) per home (exclusive of immediate family), when such excess residents remain in the mobile home in excess of 15 consecutive days or 30 total days per year.

Late Payment Fee -- If any payment is not received by the Park Owner by the seventh day of the month in which it is due, the payment will be increased by \$\_\_\_\_\_ dollars (\$\_\_\_\_\_) OR 5%, whichever is greater.

Returned Check Fee -- A charge of \$\_\_\_\_\_ or 5%, whichever is greater, will be charged for checks returned by the bank for any reason.

Clean-up Fee -- A fee, based on actual labor and materials incurred, is charged to the resident failing to clean-up after a private function on park property.

Damage of Home -- A fee of \$\_\_\_\_\_, based on actual labor and material to remove, will be charged to an owner who fails to remove a home damaged by fire or other hazard, or due to run down or deteriorated condition.

Maintenance Fee -- A fee of \$\_\_\_\_\_, based on actual labor and material incurred, will be charged to those residents who fail to repair, trim, prune or who otherwise fail to maintain the exterior appearance of their home. Routine exterior washing or gardening operations would normally not exceed \$\_\_\_\_\_.

Trash -- \$\_\_\_\_\_ per month

Storm Drainage -- \$\_\_\_\_\_ per month.

Lawn Mowing -- \$\_\_\_\_\_

Damage to Park Property -- \$\_\_\_\_\_ Residents are responsible for damages to any property within the park caused or contributed to by their guests.

Community Building Cleanup Fee -- \$\_\_\_\_\_ a charge to cleanup the recreation hall will be assessed against the party sponsoring any event after which event the recreation hall is not properly cleaned.

Lot Clean-Up Charge -- \$ \_\_\_\_\_ (per man hour) In case of fire, wind or water damage to Resident's property, or in the event that Resident's lot is not kept clean and free of trash or debris, Resident shall be responsible for any cost of repairs, removal of debris, and clean up of lot.

Lawn Maintenance Fee -- including mowing, edging, and trimming, in the amount of \$ \_\_\_\_\_ for each required maintenance performed by Management due to the fact that home owner fails and/or refuses to do so.

Governmental and Utility Charges -- In addition to the base rent and other charges listed above, the homeowner will be responsible for payment of those ad valorem and non ad valorem assessments and any other fees, charges and costs charged to the park owner by state or local government or utility company, including but not limited to property taxes, filing fees, annual fees charged by the Florida Division of Land Sales Condominiums and Mobile Homes, insurance, utilities (including waste disposal), ambulance taxes, recycling fees and services to the extent those amounts exceed the amounts actually paid for such items by the park owner during the calendar year ending on the July 31 preceding the date on which the homeowner's base rent payment was most recently set. In those instances where the utilities or any of them are owned or operated by the park owner, there shall be included in the determination of utility cost increases all related out-of-pocket costs including, without limitation, the cost of maintaining or operating the utility plant, repairs, capital improvements, and meeting governmental requirements. The homeowner will also be required to pay, over a reasonable period of time to be established by the park owner, a pro rata portion of the cost of capital improvements or alterations required by a government agency and a pro rata portion of the cost and fees associated with hooking up to a private or public utility company if the park owner should discontinue operating any utility it now operates. Certain governmental and utility charges may be assessed more often than annually and will be assessed to the homeowner on a pro rata basis. Although certain of these charges may be passed on to the homeowner more often than annually, the park owner reserves the right to recoup those costs in the form of future rent increases or other charges, rather than as governmental and utility charges. For purposes of this prospectus and any lot rental agreement issued in conjunction with this prospectus, trash (garbage) pick up service shall be considered a utility.

Annual assessments may be imposed on the homeowner in addition to the base rent. The annual assessment will be imposed for a limited time period, as set forth in a notice of increase in lot rental amount, which notice will be delivered at least 90 days prior to the effective date of the assessment. To the extent a particular increase in cost is used as a basis for the imposition of an annual assessment, that cost will not otherwise be used as a factor

an increasing the lot rental amount during the period for which the assessment is being imposed.

The term "pro-rata" refers to the amount determined by dividing the respective total amount by the number of spaces rented on January 1 of the calendar year in which the cost was incurred.

5. **SERVICES INCLUDED IN LOT RENTAL AMOUNT.** Services which are provided by management which are included in the lot rental amount are:

- (a) Maintenance of roads within the Park;
- (b) Maintenance and replacement of the storm drainage system, street lights, fish cleaning area and shed, boat davit, shuffleboard courts, horseshoe pits, common areas and street light maintenance and replacement.
- (c) Trash removal from dumpsters in central location to which Homeowners deliver leaves and trash.
- (d) Maintenance, care and replacement of the Community Building and clubhouse and their equipment. (Use of this building is currently is under the supervision of the Homeowners' Association.)
- (e) Individual mail boxes (U.S. Government approved locked-type), mail delivery to individual boxes by U.S. Postal service to boxes located in Community Building.
- (f) Card system on all Homeowners containing vital information such as the names, addresses and telephone numbers to call in emergency, when and if required.
- (g) Coin operated laundry room furnished as a convenience to the Homeowners, located at the north end of the Community Building. The Park maintains this equipment, and pays for all water and electric power consumed in the laundry room. There is also provided an outside drying area for clothes adjacent to the Community Building.
- (h) Fish cleaning house maintained by the Park as a convenience to the Homeowners.
- (i) Boat davit at the marina for lifting boats, maintained by the Park as a convenience to the Homeowners.
- (j) Trimming or removal of trees from the common areas, or on individual lots when, in the exclusive and sole opinion of the Park Owner, a tree poses a threat or hazard to the safety of any park resident. The Park does not insure nor guarantee tenants on individual lots against falling limbs or trees, that being the sole and exclusive responsibility of the individual Homeowner renting the lot.
- (k) Storm Drainage

4. **TERMINATION.** the Park Owner may terminate this Agreement upon the Homeowner's failure to comply with this Agreement or the Rules and Regulations subject to the termination provisions of the Florida Statutes. In the event of Homeowner's death, or upon the death of one Homeowner where ownership of the mobile home is a joint tenancy, the surviving Homeowner or the lawful representative of a deceased Homeowner shall have the option to terminate this Agreement upon ninety (90) days written notice given within ninety (90) days after the death. This Agreement may be terminated for other causes only as permitted by applicable Florida law.

5. **CONDEMNATION.** Condemnation of the space which is the subject of this Agreement or of all or a substantial portion of the PARK shall be sufficient grounds for the unilateral termination of this Agreement by the Park Owner; however, in such event, the Park Owner shall notify the Homeowner in writing as required by law. No award for any partial or entire condemnation of the Park shall be apportioned, and the Homeowner hereby renounces any interest in any award resulting from a condemnation of all or part of the real property, improvements and business at the Park. the Park Owner renounces any interest in any relocation award or personal property compensation made to the Homeowner in connection with the condemnation or forced relocation of the Homeowner's home and its appurtenances by a government body, unless the Homeowner makes a claim against the Park Owner for a relocation award or property compensation in connection with the displacement.

6. **RULES AND REGULATIONS.** The Homeowner agrees to abide by and conform to all of the present Rules and Regulations and all future Rules and Regulations adopted by the Park Owner and implemented in compliance with state law. **THE HOMEOWNER ACKNOWLEDGES THAT HE HAS READ THE RULES AND REGULATIONS PRIOR TO SIGNING THIS AGREEMENT AND THAT HE AGREES TO BE BOUND BY THEM.** the Park Owner may, at its discretion and in conformity with the law, amend the Rules and Regulations from time to time but shall specify the date of implementation of each such amendment, which date shall not be less than ninety (90) days after written notice to all affected residents in the Park and the board of directors of the homeowners' association, or such shorter period as may be allowed by law.

7. **DAMAGE OF HOME.** If the Homeowner's home or other improvement is destroyed or so damaged by fire or other cause as to be wholly or partially unfit for occupancy or use, the Homeowner shall continue to make all payments called for by the terms of this Agreement. However, the Homeowner shall make the home or other improvement fit for occupancy or use and make it conform to the Rules and Regulations, or replace it, within sixty days of such destruction or damage. If the home or other improvement is destroyed or irreparably damaged, then it shall be removed promptly by the

Homeowner at his or her own expense. If the Homeowner fails to so remove it, the Park Owner may, with notice, remove it and charge the Homeowner for the cost, which sum shall be due and payable immediately.

8. **FIXTURES.** All structures, including fences, embedded in the ground, blacktop or concrete, shall be maintained in good repair and attractive condition by the Homeowner. If such items are damaged or removed by the Homeowner, then the Homeowner shall repair any damage caused as a result.

9. **ATTORNEY'S FEES AND COURT COSTS.** Should either the Park Owner or the Homeowner be required to employ counsel to enforce the terms, conditions or covenants of this Agreement, the prevailing party shall recover all reasonable attorney's fees incurred.

10. **SUCCESSORS TO THE PARK OWNER.** If the Park Owner should sell its property at the Park and assign its rights and obligations under this Agreement to the new owner, the Homeowner shall honor such an assignment by recognizing the new owner in the Park Owner's place and by releasing the Park Owner from all further obligation under this Agreement. The Homeowner shall and hereby does subordinate its interests, to the extent any interests exist under this Agreement, to the Park Owner's successors and to lenders who may be granted a security interest in the Park's property. The Homeowner empowers the Park Owner and its successors as attorney-in-fact to execute all instruments necessary to accomplish such sub-ordination.

11. **SUCCESSORS TO THE HOMEOWNER.** Upon the Park Owner's prior approval of the buyer, the remaining term of this Agreement may be assumed by a person who purchases the Homeowner's home if the condition of the home complies with the Rules and Regulations. Upon the expiration of the remaining term of the assumed Agreement, the buyer will be offered a new agreement at the rates and on the terms then established for new Homeowners.

12. **STATUTORY PROVISIONS.** The relationships between the Homeowner and the Park Owner shall be subject to the terms of Chapter 723, Florida Statutes.

13. **WAIVER.** The waiver by the Park Owner of any default of the Homeowner or the acceptance by the Park Owner of payment with knowledge of any default of any term, covenant or condition of the Agreement shall not be deemed to be a waiver by the Park Owner of any subsequent or further breach by the Homeowner of any term, covenant or condition of this Agreement. The failure by the Park Owner to take any action in respect to any default of any term, covenant or condition shall not be deemed to be a waiver by the

Park Owner of such default or any other or further default(s) and the Park Owner reserves the right to pursue its remedies in full at any time.

14. SAVINGS CLAUSE. Each provision of this Agreement is separate and distinct and individually enforceable. In the event any provision is declared to be unlawful, the enforceability of all the other provisions shall not be affected.

Signed at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_,  
19\_\_.

SANDPIPER MOBILE HOME MANOR

HOMEOWNER

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

\_\_\_\_\_

HOMEOWNER

\_\_\_\_\_

EXHIBIT C  
(SEE ATTACHED)



## MANAGEMENT AGREEMENT

This Management Agreement, entered into on this the 22<sup>nd</sup> day of October, 1998, by and between Sandpiper Mobile Manor Associates, L.L.C. and The Bloch Organization (hereinafter referred to as "Owner") and (hereinafter referred to as "Management Agent").

### WITNESSETH:

**WHEREAS**, Owner is the owner of the Sandpiper Mobile Manor located in Leesburg, Lake County, Florida (hereinafter referred to as the "Property").

**WHEREAS**, Management Agent is in the property management business and is willing to undertake the management of Property upon the terms set forth herein; and

**NOW, THEREFORE**, in consideration of the above and foregoing premises and mutual covenants contained herein, the parties agree as follows:

1. **Specific Duties and Authority of Management Agent** Management Agent shall have full, complete, and absolute power, right and duty, to conduct the day-to-day affairs of the Property in its own discretion, subject only to the general oversight of the Managing Member and majority of its members, including by way of example and not by limitation, the right to:
  - A. lease, operate, maintain bank accounts, bring suit upon behalf of owner and otherwise deal with the Property at a price and upon terms as it deems to be in the best interests of Owner;
  - B. acquire, by purchase, lease, exchange, or otherwise, any items reasonably necessary to Management Agent's performance of the duties set forth above;
  - C. employ agents, employees, managers, accountants, attorneys, consultants, and other persons necessary or appropriate to carry out the business and operations of Sandpiper Mobile Manor, and to pay fees, expenses, salaries, wages, and other compensations to such persons;
  - D. pay, extend, renew, modify, adjust, submit to arbitration, prosecute, defend, or compromise, upon such terms as it may determine and upon such evidence as it may deem sufficient, any obligation, suite, liability, cause of action, or claim, including taxes, either in favor of or against owner and/or the Property;
  - E. determine the appropriate accounting method or methods to be used by owner;
  - F. establish and maintain cash reserves for such purposes and in such amounts as it deems appropriate from time to time;

- G. engage in any kind of activity and to perform and carry out contracts of any kind necessary to, or in connection with, or identical to the accomplishment of the purposes of owner and/or the Property.

2. **Compensation**

A. As compensation in full for the successful fulfillment of all managerial services to be performed hereunder, Owner shall pay Management Agent three percent (3.0%) of the gross revenues of Sandpiper Mobile Manor on a monthly basis.

B. In addition, Owner shall reimburse Management Agent for expenses incurred by Management Agent in performance of work and the performance of services under this Agreement.

3. **Term of Agreement**

This Agreement shall be for an initial period of Three (3) years from the date first above written, unless terminated or canceled as provided herein. This Agreement may be terminated or canceled by either party upon the occurrence of any of the following events, and neither party shall have any liability to the other party for the exercise of such right:

- (i) by either party, if the other party has breached a covenant, obligation or warranty under this Agreement and such breach remains uncured for a period of thirty (30) days after notice thereof if sent to such other party,
- (ii) by either party, if the other party ceases to conduct business or
- (iii) in the event either party terminates or cancels this Agreement, Owner shall have no further liability to Management Agent, except to pay Management Agent a pro-rate share of the compensation of Paragraph 2 for that portion of work performed through the date of termination/cancellation.

4. **General**

A. This Agreement is the sole entire agreement between the parties retaining to the subject matter hereof, and supersedes all prior understanding, agreements and documents relating to the subject matter hereof. This agreement may be amended only by the instrument executed by authorized representatives of both parties.

B. This Agreement shall be interpreted in accordance with the substantive law of the State of Michigan.

IN WITNESS WHEREOF, the parties have signed their names on the day and year first above written.

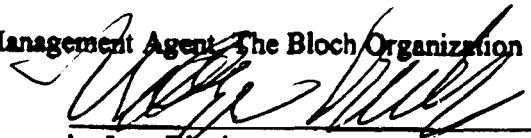
Owner, Sandpiper Mobile Manor Associates, L.L.C.

Date: \_\_\_\_\_

  
by Peter Beer

Management Agent, The Bloch Organization

Date: \_\_\_\_\_

  
by Ivan Bloch

Date: \_\_\_\_\_


  
Managing Member

EXHIBIT D

None

EXHIBIT E

None

**EXHIBIT G**

None

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POST CLOSING AGREEMENT

October 26, 1998

TransAtlantic Capital Company, L.L.C.  
31 West 52nd Street, 10th Floor  
New York, New York 10019

Re: Loan from TransAtlantic Capital Company, L.L.C. (the "Lender") to Sandpiper Mobile Manor Associates, L.L.C. (the "Borrower") in the amount of \$2,000,000 (the "Loan")

Ladies and Gentlemen:

As a material inducement for the Lender to close the Loan on the date hereof, the Lender has required that this Agreement be executed and delivered to the Lender. In regard to the Loan, the undersigned does hereby certify to and agree with the Lender as follows:

1. Specific Post Closing Matters. To the extent applicable, attached hereto as Exhibit "A" is a list of specific requirements which must be met within the time set forth in said Exhibit. If said matters are not met or complied with within said time period(s), the same shall constitute a default under the Loan. The undersigned acknowledges that the Loan Documents are being executed at this time and the Loan closed and funds disbursed in connection therewith without all the Loan requirements being met and that the execution of the Loan Documents shall not constitute any admission by the Lender that all the Loan requirements have been met.

2. Default under this Agreement. The failure of the Borrower to comply with the provisions of this Agreement at any time shall be and constitute a default under the Loan.

3. Survival of Agreement. This Agreement shall survive the closing of the Loan.

Borrower

SANDPIPER MOBILE MANOR ASSOCIATES,  
L.L.C., a Michigan limited liability company

By: 

Name: Peter Beer

Title: Managing Member



EXHIBIT "A"

SCHEDULE OF POST CLOSING ITEMS

<u>Description of Item:</u>	<u>To Be Accomplished By:</u>
1. Revise standard Lot Rental Agreement so that: (1) all future Lot Rental Agreements are subordinate to the Mortgage and Security Agreement, and (2) all future tenants shall attorn to the Mortgagee or its designated party should the Mortgagee or its designated party act as landlord under the lease.	November 13, 1998
2. Revise the Boat Dock User Fee Agreement so that: (1) all future agreements are subordinate to the Mortgage and Security Agreement; (2) all future boat dock users ("Users") shall attorn to the Mortgagee or its designated party should the Mortgagee or its designated party act as Lessor under the agreement; (3) all Users shall be responsible for any damage caused to the Mortgaged Property; and (4) Lessor shall not be responsible for any damage caused by Lessee's own actions or by Lessor's own actions, unless such actions are grossly negligent.	November 13, 1998
3. Provide Estoppel from Friendly Cable of Florida, Inc. a/k/a Galaxy Cablevision which provides: (1) there are no defaults under that lease agreement, dated May of 1988, as amended in May of 1993 (2) the date on which the last rent was paid, (3) the current monthly rental, and (4) the expiration date of the lease.	November 26, 1998

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EXHIBIT B

RECEIPT AND ACKNOWLEDGMENT

VIA FACSIMILE - (312) 876-7934  
TransAtlantic Capital Company, L.L.C.  
c/o Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago, Illinois 60606  
Attention: David Schrod, Esq.

Ladies and Gentlemen:

The undersigned hereby acknowledges receipt of the Delivered Documents, Enclosed Documents and Loan Funds. The undersigned also acknowledges that the Delivered Documents and the Enclosed Documents are identical, except that the Delivered Documents have been executed and Notarized and the Enclosed Documents have some blanks filled in. The undersigned agrees to disburse the Loan Funds and in accordance with the Escrow Agreement dated October 21, 1998 ("Escrow Agreement"). The undersigned hereby confirms that: (A) all requirements necessary for the issuance of the Policy including, without limitation, either the payment of, or satisfactory provision for the payment of, title insurance premiums, recording fees, taxes and existing encumbrances against the Property, have been or will be complied with; (B) the undersigned will issue the Policy in accordance with the provisions of the Escrow Agreement and has or will otherwise comply with the terms of the Escrow Agreement; (C) the undersigned will insure the so-called "gap" during the period from the date of the Commitment and Settlement Date through the date and time of recording of the Security Instrument; (D) the undersigned will record or file, as appropriate, the originals of the Delivered Documents; and (E) the undersigned, upon receipt thereof, will record or file, as appropriate, at Borrower's sole cost and expense, the Assignment Documents and will issue the Endorsement(s) to the Policy promptly thereafter.

Dated: October 23, 1998

COMMONWEALTH LAND TITLE  
INSURANCE COMPANY

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

Name: Dennis Choi

Title: NTS COUNSEL

EXHIBIT C

LIST OF LOAN DOCUMENTS

- A. Promissory Note in principal amount of \$2,000,000 by Borrower in favor of TransAtlantic Capital Company, L.L.C.
- B. Mortgage and Security Agreement by Borrower in favor of TransAtlantic Capital Company, L.L.C.
- C. Assignment of Leases and Rents by Borrower in favor of TransAtlantic Capital Company, L.L.C.
- D. Guaranty in favor of TransAtlantic Capital Company, L.L.C.
- E. Environmental Indemnity Agreement in favor of TransAtlantic Capital Company.
- F. Certification Regarding Property Documents and Financial Information by Borrower in favor of TransAtlantic Capital Company, L.L.C.
- G. Borrower's Closing Certificate in favor of TransAtlantic Capital Company, L.L.C.
- H. 2 UCC-1 Financing Statements by Borrower, as debtor, in favor of TransAtlantic Capital Company, L.L.C., as secured party.

October 22, 1998

**VIA FEDERAL EXPRESS**

Commonwealth Land Title  
Insurance Company  
655 Third Avenue, 11th Floor  
New York, New York 10017  
Attn: Dennis Choi

Commonwealth Land Title  
Insurance Company  
2233 Lee Road, Suite 204  
Winter Park, FL 32789  
Attn: Tammy Scott

Re: File No. NTS-98-10-1064 relating to the loan to  
be made by TransAtlantic Capital Company, L.L.C.  
to Sandpiper Mobile Manor Associates, L.L.C.

Dear Dennis and Tammy:

This letter shall constitute escrow instructions to you from TransAtlantic Capital Company, L.L.C. (the "Lender") in connection with the approximately \$2,000,000.00 loan (the "Loan") to be made by Lender to Sandpiper Mobile Manor Associates, L.L.C. (the "Borrower"), with respect to the property located in the County of Lake, State of Florida, known as the Sandpiper Mobile Manor (the "Property").

A. Delivery of Documents. Delivered to Commonwealth Land Title Insurance Company (referred to herein as "you" or "Escrow Agent") herewith, are the following documents relating to the Loan (collectively, the "Delivered Documents"). Delivered to you directly from the Borrower are identical copies of the Delivered Documents ("Borrower Documents, except that the Borrower Documents have been executed and certain blanks on the documents enclosed herewith have been filed in. Upon receipt of the Borrower Documents and the Delivered Documents, you shall replace the execution page and the notary page for the Delivered Documents with those completed pages in the Borrower Documents so that the Delivered Documents are fully executed and in recordable form. Concurrently with the funding of the Loan and the satisfaction of the Closing Conditions (as hereinafter defined) (the "Closing"), you shall take possession of all of the Delivered Documents for the benefit of the Lender, and deliver the Delivered Documents in accordance with the provisions of this letter:

1. Mortgage and Security Agreement executed by Borrower to Lender (the "Security Instrument"); and
2. Assignment of Leases and Rents executed by Borrower in favor of Lender (the "Assignment of Leases").

B. Wire Transfer. On the Settlement Date (as defined herein), you will receive from or on behalf of Lender by wire transfer the amount indicated as the Mortgage Loan Amount in the closing Statement (the "Closing Statement"), a copy of which will be telecopied to you on or before the Settlement Date (the "Loan Funds") which shall be held in escrow by you until such time as disbursed or returned as provided herein.

C. Conditions to Closing. The following are Lender's conditions to Closing and releasing the Loan Funds and Borrower Funds held by you (collectively, the "Closing Conditions") on the Settlement Date:

- (i) You have received all of the Delivered Documents.
- (ii) You have received from Lender the Loan Funds and from Borrower the Borrower Funds and are prepared to immediately disburse said funds in accordance with the Disbursement Statement, a copy of which will be attached to the Closing Statement.
- (iii) You are unconditionally and irrevocably committed to issue to Lender an ALTA Loan Policy of Title Insurance (the "Policy"). The Policy:
  - (a) shall be effective as of the date and time of the Settlement Date, regardless of the recording or failure to record the Delivered Documents in the applicable county recorder's office, and shall be redated as of the date of the recording of the Security Instruments;
  - (b) shall show the named insured as "TransAtlantic Capital Company, L.L.C. and its successors and assigns, as their interests may appear";
  - (c) shall provide coverage in the amount of the Loan indicated in the Closing Statement;
  - (d) shall show title to the fee interest in the Property vested in Borrower;
  - (e) shall contain a legal description identical to the legal description attached to the Security Instrument as Exhibit A;
  - (f) shall insure the Security Instrument to be a valid first lien on the Property pursuant to the commitment for title insurance, File Number NTS-98-10-1064 (the "Commitment") as shown on the copy attached hereto as Exhibit A, and shall incorporate all of

the notations and changes included thereon and include all of the endorsements attached thereto as indicated; and

- (g) shall reference the Assignment of Leases and one UCC Financing Statement either in Schedule A or as subordinate items in Part 2 of Schedule B.
- (iv) Each page of the Policy and each endorsement attached thereto must reflect the correct Policy Number. Further, each endorsement to the Policy must be signed and dated.
- (v) You shall have notified David Schrodt, Esq. of Sonnenschein Nath & Rosenthal at (312) 876-7571 (or in his/her absence, Steven R. Davidson, Esq. of the same firm at (312) 876-8238) (collectively, the "Lender Notice Parties") that Conditions (i), (ii) and (iii) of this paragraph have been satisfied.

D. Closing. When all of the foregoing Closing Conditions have been fully met:

You shall notify one of the Lender Notice Parties that you have received the Loan Funds; and then

- (i) You shall execute the Receipt and Acknowledgement attached hereto as Exhibit B and send it by facsimile to one of the Lender Notice Parties (Fax 312-876-7934)
- (ii) You shall record in the appropriate records of the County of Lake, State of Florida, the Security Instrument, and the Assignment of Leases in that order and;
- (iii) You shall disburse the Loan Funds in the manner specified in the Disbursement Statement attached to the Closing Statement; and then (but not later than 10 days thereafter)
- (iv) You shall deliver the Policy. The Policy should be sent via overnight courier to:

Steven R. Davidson, Esq.  
Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago, Illinois 60606

Within two (2) business days of the Settlement Date, I shall deliver to you the following documents: Two (2) UCC-1 Financing Statements showing Borrower, as debtor, and Lender, as secured party (the "Financing Statements").

- (i) You shall record in the appropriate records of the County of Lake, State of Florida, one (1) Financing Statement, after you have recorded the Security Agreement and the Assignment of Leases, and you shall cause the filing of the remaining Financing Statement with the Secretary of State of the State of Florida;

Your recordation of any of the documents or disbursement of any funds delivered in accordance with the terms of this letter shall constitute your unqualified, unconditional and irrevocable agreement to issue the Policy as set forth herein. All title insurance premiums, recording fees, escrow fees, taxes and other closing costs, to the extent that same exceed the amount provided therefor in the Closing Statement, are to be paid by Borrower, and your disbursement of any funds delivered to you hereunder shall evidence your receipt of all such premiums, fees and other costs. Promptly after the Closing, you agree to file any Form 1099 necessitated by the consummation of the loan.

E. Compliance Dates.

- (i) If for any reason, by 3:30 p.m. (local time) on October 23, 1998 (the "Settlement Date"), you have not received from Lender the Loan Funds, you are to immediately notify one of the Lender Notice Parties for further instructions.
- (ii) If for any reason, on the Settlement Date or by 1:00 p.m. (local time) of the business day following the Settlement Date, you are not prepared to comply with the provisions of Paragraph D above (with the exception of Paragraph D(iv)), you are to immediately notify one of the Lender Notice Parties for further instructions and return the Loan Funds to Lender.

F. Confirmation. As soon as the Delivered Documents have been recorded in accordance with the terms of this letter, you shall fax written confirmation of such recording to one of the Lender Notice Parties, which written confirmation sets forth the date and time of recording and the recording information of each recorded document.



G. Return of Documents. The original recorded Delivered Documents are to be returned after the recording thereof by overnight courier to:

Steven R. Davidson, Esq.  
Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago, Illinois 60606

H. Interest. By its execution of this letter below, Borrower agrees that, from and after the date upon which the Loan Funds are placed on the wire by Lender (regardless of the actual date of the Closing), the full amount of the Loan thereupon shall be deemed to be disbursed to Borrower and evidenced by the Promissory Note executed by Borrower in evidence of the Loan (the "Note") and shall bear interest at the rate provided in the Note; provided, however, that Borrower's obligations under the Note shall arise only when such funds are disbursed to or for the benefit of Borrower, and should the Loan fail to close for any reason, interest shall remain due and payable by Borrower as provided in the Note only through the date on which the Loan Funds are returned to Lender.

I. Escrowed Loan Documents. On or prior to the date hereof, Borrower has delivered to Lender or its agent (which may include Lender's counsel or a custodian acting on its behalf) fully executed and where appropriate, acknowledged original counterparts of each of the documents listed on Exhibit C attached hereto, including, without limitation, duplicate original counterparts of each of the Recorded Documents (collectively, the "Loan Documents"). The Loan Documents shall be held by Lender in escrow pending the Closing (Borrower acknowledges that while Lender is holding the Loan Documents in escrow, it may transfer possession thereof to its agent on its behalf). The Loan Documents shall be deemed to be delivered from Borrower to Lender upon the Closing. If the Closing shall not occur for any reason, Lender will return (or will cause to be returned) the Loan Documents to Borrower.

J. Notices. A. Except as otherwise expressly provided herein, any notice, consent, approval, request, demand, document or other communication which any party is required or may desire to give, deliver or make to any other party pursuant to this letter shall be in writing, and may be personally delivered or given or delivered by United States registered or certified mail, return receipt requested, by overnight delivery service (e.g., Federal Express), or by telecopied transmission addressed as follows:

If to Lender:

TransAtlantic Capital Company, L.L.C.  
31 West 52nd Street, 10th Floor  
New York, New York 10104  
Telecopier: (212) 469-8976  
Attn.: Paul Fried  
Telephone: (212) 469-7336

Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago, Illinois 60606  
Telecopier: (312) 876-7934  
Attn.: Steven R. Davidson, Esq.  
Telephone: (312) 876-8238

If to Borrower:

Sandpiper Mobile Manor Associates  
18700 West Ten Mile Road  
Southfield, Michigan 48075  
Telecopier:  
Attn: Peter Beer  
Telephone:

Escrow Agent:

Commonwealth Land Title Insurance Company  
655 Third Avenue, 11th Floor  
New York, New York 10017  
Telecopier: 212-557-2148  
Attn.: Dennis Choi  
Telephone: 800-258-5117, ext. 226

A. Any party may designate a different address for itself by notice similarly given. Any notice, demand or document shall be deemed to have been given upon actual delivery or attempted delivery, provided such attempted delivery is made on a business day. Notices hereunder may be given by an attorney for a party hereto.

B. A duplicate copy or communication of any notice or other communication delivered or given to Lender pursuant to this letter shall be delivered in the same manner to a Lender Notice Party at the address, telecopy and telephone numbers set forth above.

K. Amendment. The undersigned, (or, in his/her absence, Steven R. Davidson, Esq.), on behalf of Lender, reserves the right to modify the foregoing instructions at any time prior to the recording of the Delivered Documents.

L. Counterpart Execution. This letter may be signed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument. A signed fax of this letter shall constitute an original.

M. Sale of Loan. It is anticipated that the Loan may be sold after the closing thereof. Delivered to you herewith is a copy of a form of Assignment of Mortgage/Deed of Trust/Deed to Secure Debt and Security Agreement and Assignment of Leases and Rents and two (2) UCC financing statement assignment forms (the "Assignment Documents"). Upon your receipt of the original executed Assignment Documents fully completed, you shall, at Borrower's sole cost and expense, record the same and issue an endorsement to the Policy (the "Endorsement") insuring the assignment of Lender's interest under the Security Instrument to the entity purchasing the Loan.

**[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]**

Please confirm your agreement to comply with the foregoing instructions by signing the attached copy of this letter in the space provided on the bottom of this page and returning it to me.

Very truly yours,

TRANSATLANTIC CAPITAL COMPANY,  
L.L.C.

By: SONNENSCHN NATH & ROSENTHAL  
Counsel for the Lender

By: David Schrodt  
Name: David I. Schrodt

Accepted and agreed to:

ESCROW AGENT:

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By: Dennis Choi

Name: Dennis Choi

Title: NTS COUNSEL

Date: October 23, 1998

BORROWER:

SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.

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

Name: Peter Beer

Title: Managing Member

Date: October 23, 1998

Please confirm your agreement to comply with the foregoing instructions by signing the attached copy of this letter in the space provided on the bottom of this page and returning it to me.

Very truly yours,

TRANSATLANTIC CAPITAL COMPANY,  
L.L.C.

By: SONNENSCHN NATH & ROSENTHAL  
Counsel for the Lender

By: David Schrodt  
Name: David I. Schrodt

Accepted and agreed to:

ESCROW AGENT:

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By: \_\_\_\_\_  
Name: Dennis Choi  
Title:  
Date: October 23, 1998

BORROWER:

SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.

By: Peter Beer  
Name: Peter Beer  
Title: Managing Member  
Date: October 23, 1998

EXHIBIT A

MARKED TITLE COMMITMENT OR PRO FORMA POLICY



COMMONWEALTH LAND TITLE INSURANCE COMPANY

LOAN POLICY  
SCHEDULE A

Amount of Insurance: \$2,000,000.00

Policy No. OR984760-L

Customer File No.98-10-1065

Premium:

Date of Policy: Recording Date of Mortgage

1. Name of Insured:

TransAtlantic Capital Company, L.L.C., its successors and ~~its~~ assigns, *AS THEIR INTERESTS MAY APPEAR*

2. The Estate or interest in the land described in this Schedule and which is covered by the insured mortgage is a fee simple and is at the date of policy hereof vested in:

Sandpiper Mobile Manor Associates, L.L.C, a Michigan Limited Liability Company

3. The land referred to in this policy is described as follows:

LEGAL DESCRIPTION IS ATTACHED HERETO AND MADE A PART HEREOF

4. The mortgage, herein referred to as the insured mortgage, and the assignments thereof, if any, are described as follows:

Mortgage and Security Agreement between Sandpiper Mobile Manor Associates, L.L.C., a Michigan Limited Liability Company and TranAtlantic Capital Company, L.L.C., dated \_\_\_\_\_, recorded \_\_\_\_\_, in Official Records Book \_\_\_\_\_, page \_\_\_\_\_, Public Records of Lake County, Florida, in the original principal balance of \$2,000,000.00.

THIS IS A PRO FORMA POLICY. FINAL POLICY WILL BE ISSUED AS SET FORTH HEREIN UPON SATISFACTION OF ALL REQUIRMENTS SET OUT IN THE COMMITMENT, AS REVISED.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
2233 Lee Road, Suite 204  
Winter Park, FL 32789-1879  
(407) 645-1070

Countersigned:

**PRO FORMA**  
Authorized Officer and Agent



Policy No. OR984760-L  
Customer File No. 98-10-1065

**LEGAL DESCRIPTION**

Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shore line of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida.

**END OF LEGAL DESCRIPTION**

**PRO FORMA**

# PRO FORMA

Policy No. OR984760-L

Customer File No. 98-10-1065

## SCHEDULE B PART 1

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes for the year 1998 and any taxes and assessments levied or assessed subsequent to the date hereof. Said taxes become a lien as of January 1, 1998, but are not due and payable until November 1, 1998, pursuant to section 197.333 F.S.
2. Transfer of Sewer and Water Infrastructure to Lake Yale Utility Company with Access Easements dated March 29, 1994, recorded August 9, 1994 in Official Records Book 1311, page 1575, Public Records of Lake County, Florida.
3. Conditions in Notice of Settlement Agreement dated May 30, 1997, recorded June 3, 1997 in Official Records Book 1521, page 1739, Public Records of Lake County, Florida. (See Mandate recorded in Official Records Book 1421, page 1612, Public Records of Lake County, Florida)
4. Easement in favor of Florida Power Corporation contained in instrument dated October 22, 1968, recorded November 13, 1968 in Official Records Book 370, page 121, of the Public Records of Lake County, Florida.
5. Easement in favor of Florida Power Corporation contained in instrument dated February 9, 1973, recorded May 8, 1973 in Official Records Book 505, page 810, of the Public Records of Lake County, Florida.
6. The insured land shall not include any mobile home or manufactured housing unit or appurtenant fixtures attached thereto, which may be affixed to the land.
7. Title to no portion of the insured land lying below the ordinary high water line (mark) of any navigable waterbody is insured.
8. The right, title, or interest, if any, of the public to use any part of the land seaward and/or lakeward of the most inland of any of the following: a) the natural line of vegetation; b) the most extreme highwater line; c) the bulkhead line; and d) any other line which has been legally established as relating to such public use.
9. Any claim that any part of said land is owned by the State of Florida by right of sovereignty and riparian rights, if any.
10. Matters as set forth on the Survey prepared by Farnar and Associates dated October 6, 1998 as follow:
  - A) Building tie 4.80' East of West line of subject premises.
  - B) Sign and Concrete/Wooden Post/Fence lying outside property along West lot line.
  - ~~C) Any wires lying within subject premises along West lot line.~~
  - D) Landscape timbers encroaching on adjacent lot along the South lot line.
  - E) Edge of pavement lying +/- on West lot line.

Policy No. OR984760-L

Customer File No. 98-10-1065

- F) Sign ~~and power poles and guy wires~~<sup>POLE</sup> lying on subject premises in Northwest corner of lot.
- G) Sanitary sewer, water valve lying within subject premises along North lot line.
- H) Concrete block wall and mobile home lying on subject premises along North lot line.
- I) Wood dock lying in Lake Yale. (Item No. 4 of the Florida Form 9 is hereby excluded from coverage as to this exception)
- J) Rights of others, if any, to use the asphalt road lying along the South lot line for ingress and egress.
- K) Unidentified lines lying along the North lot line.

END OF SCHEDULE B PART 1

18. RIGHTS OF TENANTS, AS TENANTS ONLY, AS SET FORTH ON THE ATTACHED RENT ROLL.

PRO FORMA

Policy No. OR984760-L

Customer File No. 98-10-1065

**SCHEDULE B  
PART II**

In addition to the matters set forth in Part I of this Schedule, the title to the estate or interest in the land described or referred to in Schedule A is subject to the following matters, if any be shown, but the Company insures that these matters are subordinate to the lien or charge of the insured mortgage upon the estate or interest:

1. Assignment of Leases and Rents in favor of TransAtlantic Capital Company, L.L.C., recorded \_\_\_\_\_, in Official Records Book \_\_\_\_\_, page \_\_\_\_\_, Public Records of Lake County, Florida.

**END OF SCHEDULE B PART II**

**PRO FORMA**

**COMMONWEALTH LAND TITLE INSURANCE COMPANY****FLORIDA ENDORSEMENT FORM 9**

Company File No. OR984760  
Customer File No. 98-10-1065

Attached to and made a part of Policy No. OR984760-L

The Company insures the owner of the indebtedness secured by the insured mortgage against loss or damage sustained by reason of:

1. Any incorrectness in the assurance that, at Date of Policy:
  - (a) There are no covenants, conditions or restrictions under which the lien of the mortgage referred to in Schedule A can be divested, subordinated or extinguished, or its validity, priority or enforceability impaired.
  - (b) Unless expressly excepted in Schedule B:
    - (1) There are no present violations on the land of any enforceable covenants, conditions or restrictions nor do any existing improvements on the land violate building setback lines shown on a plat of subdivision recorded or filed in the public records.
    - (2) Any instrument referred to in Schedule B as containing covenants, conditions or restrictions on the land does not, in addition, (i) establish an easement on the land; (ii) provide a lien for liquidated damages; (iii) provide for a private charge or assessment; (iv) provide for an option to purchase, a right of first refusal or the prior approval of a future purchaser or occupant.
    - (3) There is no encroachment of existing improvements located on the land onto adjoining land, nor any encroachment onto the land of existing improvements located on adjoining land.
    - (4) There is no encroachment of existing improvements located on the land onto that portion of the land subject to any easement excepted in Schedule B.
    - (5) There are no notices of violation of covenants, conditions and restrictions relating to environmental protection recorded or filed in the public records.
2. Any future violation on the land of any existing covenants, conditions or restrictions occurring prior to the acquisition of title to the estate or interest in the land by the insured, provided the violation results in:
  - (a) Impairment or loss of the lien of the insured mortgage; or
  - (b) Loss of title to the estate or interest in the land if the insured shall acquire title in satisfaction of the indebtedness secured by the insured mortgage.

**PRO FORMA**

## COMMONWEALTH LAND TITLE INSURANCE COMPANY

## FLORIDA ENDORSEMENT FORM 9

Company File No. OR984750  
Customer File No. 98-10-1065

Attached to and made a part of Policy No. OR984760-L

3. Damage to existing improvements (excluding lawns, shrubbery or trees):
- (a) Which are located on or encroach upon that portion of the land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved.
  - (b) Which results from the future exercise of any right to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.
4. Any final court order or judgment requiring the removal from any land adjoining the land of any encroachment excepted in Schedule B.
5. Any final court order or judgment denying the right to maintain any existing improvement on the land because of any violation of covenants, conditions or restrictions or building setback lines shown on a plat or subdivision recorded or filed in the public records.

Wherever in this endorsement the words "covenants, conditions or restrictions" appear, they shall not be deemed to refer to or include the terms, covenants, conditions or limitations contained in an instrument creating a lease.

As used in paragraphs 1(b)(1) and 5, the phrase "covenants, conditions or restrictions" shall not be deemed to refer to or include any covenants, conditions or restrictions relating to environmental protection.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
2233 Lee Road, Suite 204  
Winter Park, FL 32789-1879  
(407) 645-1070

By \_\_\_\_\_  
Authorized Officer or Agent

October 23, 1998

426 (Form 2313-4)

Page 2 of 2

COMMONWEALTH LAND TITLE INSURANCE COMPANY

SURVEY ENDORSEMENT

Company File No. OR984760  
Customer File No. 98-10-1065

Property Described:  Residential  
 Commercial

Attached to and made a part of Policy No. OR984760-L

This Company hereby acknowledges the lands described in Schedule A are the same lands described in the survey prepared by Farner and Associates dated October 6, 1998; however, the Company does not insure the accuracy or completeness of said survey.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
2233 Lee Road, Suite 204  
Winter Park, FL 32789-1879  
(407) 645-1070

By PRO FORMA  
Authorized Officer or Agent

October 23, 1998

## COMMONWEALTH LAND TITLE INSURANCE COMPANY

ALTA ENDORSEMENT - FORM 8.1  
ENVIRONMENTAL PROTECTION LIEN

Company File No. OR984760  
Customer File No. 98-10-1065

Attached to and made a part of Policy No. OR984760-L

The insurance afforded by this endorsement is only effective if the land is used or is to be used primarily for residential purposes.

The Company insures the insured against loss or damage sustained by reason of lack of priority of the lien of the insured mortgage over:

- a. any environmental protection lien which, at Date of Policy, is recorded in those records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge, or filed in the records of the clerk of the United States district court for the district in which the land is located, except as set forth in Schedule B, or
- b. any environmental protection lien provided for by any state statute in effect at Date of Policy, except environmental protection liens provided for by the following state statutes:

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
2233 Lee Road, Suite 204  
Winter Park, FL 32789-  
(407) 645-1070

By \_\_\_\_\_

Authorized Officer or Agent

**PRO FORMA**

October 23, 1998

415 (Form 2291-1)



# SANDPIPER

## 10 PAGES

**Alaks Ed**  
107 Lake Shore Circle

**Appleby Carlene**  
1102 Sunset Court

**Baker Kenneth**  
509 Cardinal Drive

**Balkwill Charles**  
513 Cardinal

**Barich Donna**  
512 Cardinal Drive

**Barnaysk Gerald**  
402 Oak Dr

**Beall Thomas**  
809 Pine Dr

**Beebe Gene**  
709 Flamingo

**Birchencough Patrick**  
613 Sandpiper Drive

**Bishop Barney**  
1410 Azalea Drive

**Bracamontes Angela**  
803 Pine Drive

**Bricker Phyllis**  
806 Pine Drive

**Brooks Lorinda**  
814 Pine Drive

**Brown W. Dudley**  
307 Magnolia Drive

**Burke Robert**  
909 Quail

**Burman Glenn**  
232 N Lake Shore Drive

**Burns Robert**  
117 Lake Shore Circle

**Button Wade**  
704 Flamingo Drive

8 Homes Marketed at 227  
Per Month - all on  
Lake front - Lake Shore

5 Stockholders - not paying  
at 174.20

1 Stockholder not pay  
at 227.14

Campbell Calvin  
234 N Lake Shore Drive

Carpenter Bud  
412 Oak Drive

Carpenter Marie  
424 Oak Drive

Chain Dorothy  
802 Pine Drive

Chapel George  
802 Pine Drive

Clauser John  
302 Magnolia Drive

Coffin Jim  
1407 Asalea Drive

Coleman Arthur  
310 Magnolia Drive

Connors Lillian  
1012 Sunset Drive

Cook Frank  
703 Flamingo Drive

Cotton Calvin  
315 Magnolia Drive

Cox Bette  
224N Lake Shore Drive

Coyle Gene  
614 Sandpiper Drive

Crane Milt  
619 Sandpiper Drive

Davis Estate. (C. Burns)  
109 Lake Shore Circle

Dorsett Don  
506 Cardinal Drive

Ennis William  
228 N Lake Shore Dr

Eubank James  
813 Pine Drive

*Stock holder - if Paid Rent 174.20*

*Stock holder - if Paid rent 174.20*

Faucett John  
208 Lake Shore Drive

Pedorchak Donald  
306 MAGNOLIA DRIVE

Fox Gwen  
812 Pine Drive

Prantz Lynn  
504 Cardinal Drive

Fredorchak Donald  
306 Magnolia Drive

Funk William  
710 Flamingo Drive

Gage Rose Marie  
427 Oak Drive

Garrett Athleen  
413 Oak Drive

Garrison Walter  
1102 Sunset Ct

Gladding Irene  
706 Flamingo Drive

Gobbis Michael  
907 Quail Drive

Godinsky Ann  
708 Flamingo Drive

Goeres Eleanor  
515 Cardinal Drive

Golday Lela  
823 Pine Drive

Griffis Chuck  
113 Lake Shore Circle

Hance Wiley  
508 Cardinal Drive

Harding Irma  
605 Sandpiper Drive

Haitling Carol  
311 Magnolia Drive

Henkel Rose  
612 Sandpiper Drive

Henley James  
405 Oak Drive

Henry James  
423 Oak Drive

Herman Joseph  
702 Flamingo Drive

Huller Don  
1303 Oak Ct

Huletta Norris  
1304 Oak Court

Hutchinson Wayne  
401 Oak Drive

Jewell Wanda  
1404 Azalea Drive

Johnson Harold  
621 Sandpiper Drive

Johnson Shirley  
827 Pine Drive

Johnston Stuart  
1402 Azalea Drive

Jones Gwendoline  
214 N Lake Shore Drive

Joslyn Nellis  
1014 Sunset Drive

Jurgens Alfred  
417 Oak Drive

Karaffa Joseph  
608 Sandpiper Drive

Keefe Esma  
618 Sandpiper Drive

Kilsdonk Robert  
712 Flamingo Drive

Klock Airlie  
206 N Lake Shore Drive

**Kuick Frank**  
623 Sandpiper Drive

**Lavanne Donald**  
1301 Oak Ct

**Leifert John**  
602 Sandpiper Drive

**Lewis Leona**  
1414 Azalea Drive

**Lisher Jerry** (1) 511 Cardinal Drive  
514 Cardinal Drive

**Lowe Vera**  
419 Oak Drive

**Lucilio Nickols**  
825 Pine Drive

**Luke Ed**  
1408 Azalea Drive

**Lundvall Vivan**  
422 Oak Drive

**Lytle Herman**  
1008 Sunset Drive

**MacMillian Thomas**  
1010 Sunset Court

**MacMillian Vincent**  
822 Pine Drive

**Mandro Hank**  
1003 Sunset Dr

**Martin John**  
204 N Lake Shore Dr

**Martin William**  
420 Oak Drive

**Massie Paul**  
818 Pine Dr

**McCary Raymond**  
705 Flamingo Dr

McCollum Ralph  
303 Magnolia Drive

Miller Laurence  
624 Sandpiper Dr

Miller Mike  
230 N Lake Shore Dr

Miller William  
119 Lake Shore Circle

Moklar Dorothy  
505 Cardinal Drive

Monnett Robert  
1416 Azalea Drive

Morrow Frank  
507 Cardinal Drive

Morton Herbert  
1302 Oak Ct

Mullis Ralph (1) 315 Magnolia Drive  
218 N Lake Shore Dr

Murray William  
622 Sandpiper Dr

Myers William  
620 Sandpiper Drive

Nadon Robert  
410 Oak Drive

Nayarkas Ruth  
403 Oak Drive

Nichols William  
218 N Lake Shore Drive

New Leroy  
228 N Lake Shore Dr

Moeker Kenneth  
711 Flamingo Drive

Ogden Bowden  
616 Sandpiper Drive

Paine Don  
518 Cardinal Dr

*- Stock holder - if Paid rent 174.20*

*Stock holder - if Paid rent 227.14*

*Stock holder - if Paid rent 174.20*

Palmer Leon  
1203 Oak St

Patton Betty Jean  
816 Pine Drive

Pelkey Gladys  
810 Pine Drive

Pelt George  
811 Pine Drive

Pelt Ralph  
304 Magnolia

Perreault Chester  
707 Flamingo Drive

Plank William  
308 Magnolia Drive

Post Kenneth  
111 Lake Shore Circle

Pryne Kenneth  
701 Flamingo Drive

Reading Katherine  
414 Oak St

Reber Wayne  
1413 Azalea Drive

Rice Lucille  
406 Oak Drive

Richards James  
611 Sandpiper Drive

Robertson Jimmy  
415 Oak Drive

Ruddell Robert  
220 N Lake Shore Drive

*Stock holder - if Paid - 174.20*

Runge Harold  
212 N Lake Shore Dr

Rupert Beulah  
421 Oak Drive

Runge Harold  
212 N Lake Shore Drive

Sartwell James  
817 Pine Drive

Saunders Judith  
1006 Sunset Dr

Sayer William  
428 Oak Drive

Schwenk Calvin  
518 Cardinal Drive

Seals Basil  
316 Magnolia Drive

Serna Carl  
312 Magnolia Dr

Shank Monica  
115 Lake Shore Circle

Sherwood Bruce  
606 Sandpiper Drive

Shiflet Stephen  
1406 Azales Drive

Sibo Lucille  
309 Magnolia Dr

Simpson Evie  
210 N Lake Shore Drive

Singhurse Dolores  
615 Sandpiper Drive

Singhurse Jerry  
1005 Sunset Drive

Smith Edwin  
314 Magnolia Drive

Smith Joseph  
510 Cardinal Drive

Snother Wallace  
821 Pine Drive

Sorenson Donald  
610 Sandpiper Drive

Sproatt Carl  
103 Lake Shore Circle



Stegar Joe  
1204 Oak Court

Sterling Margaret  
617 Sandpiper Drive

Stevens Claudia  
317 Magnolia Drive

Strauer Donald  
1405 Asalea Drive

Sullivan Robert  
501 Cardinal Drive

Sutton Joseph  
425 Oak Drive

A. Tahtinen Richard  
609 Sandpiper Dri

Thompson Coralie  
820 Pine Drive

Tipton Glen  
607 Sandpiper Drive

Trump Chas  
409 Oak Drive

VanDyke Fred  
902 Quail Drive

VanRandel Wilfred  
903 Quail Drive

Volk Fred  
604 Sandpiper Drive

Wackley Helen  
805 Pine Drive

Walsh Tom  
408 Oak Drive

Walters Lewis  
319 Magnolia Drive

Warrington Irma  
202 N Lake Shore Drive

Webb Edwin  
819 Pine Drive

Whitaker Forrest  
911 Quail Drive

Whitman Warren  
305 Magnolia Drive

Whitson John  
411 Oak Drive

Wichser Walter  
808 Pine Drive

Wildenberg Raymond  
1001 Sunset Dr

Williams Jack  
105 Lake Shore Circle

Wise James  
905 Quail Dr

Witten Winfred  
222 Lake Shore Drive

Wolf James  
404 Oak Dr

Wollins John  
407 Oak Drive

Wythe Joseph  
416 Oak Drive

13

<b>LOAN AMOUNT</b>	<b>\$2,000,000.00</b>
<b>LESS: TRANSCAP FEES AND COSTS INCURRED</b>	
Appraisal Report	(\$6,200.00)
Engineering Report	(\$2,600.00)
Environmental Report	(\$2,400.00)
Insurance Review	(\$550.00)
Zoning Review	(\$500.00)
Credit Review	(\$800.00)
Legal Fees	(\$12,000.00)
Legal Disbursements	(\$1,500.00)
Out-of-Pocket Expenses	(\$1,426.96)
Credit Application Deposit	\$15,000.00
Credit Closing Deposit	\$25,000.00

<b>TOTAL TO/FROM TRANSCAP</b>	<b>\$12,023.04</b>	<b>Wire To: DMG</b>
		<b>Bank of NYC</b>
		<b>ABA # 021 000 018</b>
		<b>IOC 569, GSCS, DBC</b>
		<b>Attn: Phil Hancock</b>
<b>LESS: DEPOSITS AT CLOSING</b>		
Upfront Taxes	(\$24,000.00)	
Upfront Insurance	(\$548.20)	
Upfront Environmental Reserves	\$0.00	
Upfront Repair Reserves	\$0.00	
Upfront Rollover Reserves	\$0.00	
Short Term Interest 10/26 thru 10/31	(\$2,500.02)	
First Month's Payment	(\$13,984.29)	
<b>FOR INFORMATION PURPOSES:</b>		
Monthly Escrow taxes	\$2,000.00	
Monthly Escrow insurance	\$548.20	
Monthly Replacement Reserve	\$6,192.00	
Monthly Rollover Reserve	\$0.00	
Monthly P&I Payment	\$13,984.29	

<b>TOTAL TO SERVICER</b>	<b>(\$41,032.51)</b>	<b>Wire to: Bank One, Texas</b>
		<b>Dallas, Texas ABA # 111</b>
		<b>000 614 Acct. 1886446853</b>
		<b>Acct. Name: BOMCM</b>
		<b>Client Clearing Account</b>
		<b>Attn: Sheila Thomas (214)</b>
		<b>290-2791</b>
		<b>Re: Loan -Sandpiper Manor</b>
<b>Less: Proceeds to Escrow Agent</b>		
Title Premium	(\$8,100.00)	
Endorsements	(\$1,010.00)	
Recording Charges	(\$500.00)	
Mortgage Tax	(\$11,000.00)	
Payment to Seller	(\$1,410,151.00)	
Insurance Premium Due	(\$6,578.50)	
NTS/Wiring Settlement	(\$500.00)	
Net Due to/from Borrower	(\$533,151.03)	

<b>FROM LENDER TO TITLE CO/ESCROW AGT</b>	<b>(1,970,990.53)</b>	<b>Wire To: Chase Manhattan</b>
		<b>Bank, N.A., New York, NY</b>
		<b>ABA #021 000 021</b>
		<b>Credit: Commonwealth</b>
		<b>Land Title Insurance Co.</b>
		<b>Acct. #0361218746</b>
		<b>Ref: Title #NTS-98-10-1064</b>
		<b>Contact: (212)949-0100</b>
		<b>Accounting Department</b>

Borrower authorizes the title company to disburse amounts from the "Net Amount Due To Borrower" in order to satisfy Borrower's obligations. Borrower approves the above for all purposes, acknowledges receipt of loan proceeds and agrees to pay all brokerage fees:  
 Accepted and Approved:

Sandpiper Mobile Manor Associates LLC

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

SANDPIPER MOBILE MAJOR  
TA 42907

<b>LOAN AMOUNT</b>	<b>\$2,000,000.00</b>
<b>LESS: TRANSCAP FEES AND COSTS INCLUDED</b>	
Appraisal Report	(\$4,200.00)
Engineering Report	(\$2,600.00)
Environmental Report	(\$2,400.00)
Insurance Review	(\$550.00)
Zoning Review	(\$500.00)
Credit Review	(\$300.00)
Legal Fee	(\$12,000.00)
Legal Disbursements	(\$1,500.00)
Out-of-Pocket Expenses	(\$1,428.88)
Credit Application Deposit	\$15,000.00
Credit Closing Deposit	\$21,000.00
<b>TOTAL TO/FROM TRANSCAP</b>	<b>\$12,823.88</b>

<b>LESS: DEPOSITS AT CLOSING</b>		Wire To: BNYC Bank of NYC ABA # 021 000 018 POC 501, 031, 001 Attn: P&B Manager
Upfront Taxes	(\$24,000.00)	
Upfront Insurance	(\$548.20)	
Upfront Environmental Reserves	\$0.00	
Upfront Repair Reserves	\$0.00	
Upfront Rollover Reserves	\$0.00	
Short Term Interest 10/28 thru 10/31	(\$2,500.00)	
First Month's Payment	(\$13,884.29)	
<b>FOR INFORMATION PURPOSES:</b>		
Monthly Escrow Taxes	\$2,000.00	
Monthly Escrow Insurance	\$548.20	
Monthly Replacement Reserve	\$6,182.00	
Monthly Rollover Reserve	\$0.00	
Monthly P&B Payment	\$13,884.29	
<b>TOTAL TO SERVICER</b>	<b>(\$61,832.51)</b>	Wire to: Bank One, Texas Dallas, Texas ABA # 111 000 011 ABA # 000000000 Acct Name: BONYCM Client Checking Account Attn: Sheila Thomas (214) 390-5791 Rev Loan - Sandpiper Major

<b>Less: Proceeds to Escrow Agent</b>		
Title Premium	(\$8,100.00)	
Endorsements	(\$1,810.00)	
Recording Charges	(\$300.00)	
Mortgage Tax	(\$11,000.00)	
Payments to Seller	(\$1,410,151.00)	
Insurance Premium Due	(\$6,578.50)	
NYN Wiring Statement	(\$500.00)	
<b>Net Due to/from Borrower</b>	<b>(\$633,131.00)</b>	
<b>FROM LENDER TO TITLE CO/ESCROW AGT</b>	<b>(\$1,876,180.50)</b>	Wire To: Chase Manhattan Bank, N.Y., New York, NY ABA 021 000 021 Credit: Commercial Lead Title Insurance Co. Acct. # 0341238700 Ref Title # NYTS-98-10-1064 Contact: (212) 949-0100 Accounting Department

Borrower authorizes the title company to disburse amounts from the "Net Amount Due To Borrower" in order to satisfy Borrower's obligations. Borrower approves the above for all purposes, acknowledges receipt of loan proceeds and agrees to pay all brokerage fees.  
Accepted and Approved

Sandpiper Mobile Home Communities, LLC  


TOTAL P.03

14

COMMONWEALTH LAND TITLE INSURANCE COMPANY

LOAN POLICY  
SCHEDULE A

Amount of Insurance: \$2,000,000.00

Policy No. OR984760-L

Customer File No.98-10-1065

Premium:

Date of Policy: Recording Date of Mortgage

1. Name of Insured:

TransAtlantic Capital Company, L.L.C., its successors and ~~its~~ assigns, *AS THEIR INTERESTS MAY APPEAR*

2. The Estate or interest in the land described in this Schedule and which is covered by the insured mortgage is a fee simple and is at the date of policy hereof vested in:

Sandpiper Mobile Manor Associates, L.L.C, a Michigan Limited Liability Company

3. The land referred to in this policy is described as follows:

LEGAL DESCRIPTION IS ATTACHED HERETO AND MADE A PART HEREOF

4. The mortgage, herein referred to as the insured mortgage, and the assignments thereof, if any, are described as follows:

Mortgage and Security Agreement between Sandpiper Mobile Manor Associates, L.L.C., a Michigan Limited Liability Company and TransAtlantic Capital Company, L.L.C., dated \_\_\_\_\_, recorded \_\_\_\_\_, in Official Records Book \_\_\_\_\_, page \_\_\_\_\_, Public Records of Lake County, Florida, in the original principal balance of \$2,000,000.00.

THIS IS A PRO FORMA POLICY. FINAL POLICY WILL BE ISSUED AS SET FORTH HEREIN UPON SATISFACTION OF ALL REQUIRMENTS SET OUT IN THE COMMITMENT, AS REVISED.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
2233 Lee Road, Suite 204  
Winter Park, FL 32789-1879  
(407) 645-1070

Countersigned: \_\_\_\_\_

**PRO FORMA**  
Authorized Office Agent

974

Policy No. OR984760-L  
Customer File No. 98-10-1065

**LEGAL DESCRIPTION**

Beginning at the Southwest corner of Government Lot 6, run thence North 1176.8 feet; thence East 546.77 feet; thence North 34 degrees 11' East to Lake Yale; thence meandering Southeasterly along the shore line of Lake Yale to a point on the East line of Government Lot 6 where the shoreline intersects said East line; thence South 0 degrees 14' 40" East a distance of 922.85 feet to an iron pipe; thence North 89 degrees 18' 10" West a distance of 1320.95 feet to the place of beginning. Said property is all located in Section 24, Township 18 South, Range 25 East in Lake County, Florida.

**END OF LEGAL DESCRIPTION**

**PRO FORMA**



# PRO FORMA

Policy No. OR984760-L

Customer File No. 98-10-1065

## SCHEDULE B PART 1

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes for the year 1998 and any taxes and assessments levied or assessed subsequent to the date hereof. Said taxes become a lien as of January 1, 1998, but are not due and payable until November 1, 1998, pursuant to section 197.333 F.S.
2. Transfer of Sewer and Water Infrastructure to Lake Yale Utility Company with Access Easements dated March 29, 1994, recorded August 9, 1994 in Official Records Book 1311, page 1575, Public Records of Lake County, Florida.
3. Conditions in Notice of Settlement Agreement dated May 30, 1997, recorded June 3, 1997 in Official Records Book 1521, page 1739, Public Records of Lake County, Florida. (See Mandate recorded in Official Records Book 1421, page 1612, Public Records of Lake County, Florida)
4. Easement in favor of Florida Power Corporation contained in instrument dated October 22, 1968, recorded November 13, 1968 in Official Records Book 370, page 121, of the Public Records of Lake County, Florida.
5. Easement in favor of Florida Power Corporation contained in instrument dated February 9, 1973, recorded May 8, 1973 in Official Records Book 505, page 810, of the Public Records of Lake County, Florida.
6. The insured land shall not include any mobile home or manufactured housing unit or appurtenant fixtures attached thereto, which may be affixed to the land.
7. Title to no portion of the insured land lying below the ordinary high water line (mark) of any navigable waterbody is insured.
8. The right, title, or interest, if any, of the public to use any part of the land seaward and/or lakeward of the most inland of any of the following: a) the natural line of vegetation; b) the most extreme highwater line; c) the bulkhead line; and d) any other line which has been legally established as relating to such public use.
9. Any claim that any part of said land is owned by the State of Florida by right of sovereignty and riparian rights, if any.
10. Matters as set forth on the Survey prepared by Farner and Associates dated October 6, 1998 as follow:
  - A) Building tie 4.80' East of West line of subject premises.
  - B) Sign and Concrete/Wooden Post/Fence lying outside property along West lot line.
  - ~~C) Guy wires lying within subject premises along West lot line.~~
  - D) Landscape timbers encroaching on adjacent lot along the South lot line.
  - E) Edge of pavement lying +/- on West lot line.

Policy No. OR984760-L

Customer File No. 98-10-1065

- F) Sign and ~~power poles and guy wires~~<sup>DELETED</sup> lying on subject premises in Northwest corner of lot.
- G) Sanitary sewer, water valve lying within subject premises along North lot line.
- H) Concrete block wall and mobile home lying on subject premises along North lot line.
- I) Wood dock lying in Lake Yale. (Item No. 4 of the Florida Form 9 is hereby excluded from coverage as to this exception)
- J) Rights of others, if any, to use the asphalt road lying along the South lot line for ingress and egress.
- K) Unidentified lines lying along the North lot line.

END OF SCHEDULE B PART 1

18. RIGHTS OF TENANTS, AS TENANTS ONLY, AS SET FORTH ON THE ATTACHED RENT ROLL.

PRO FORMA

Policy No. OR984760-L

Customer File No. 98-10-1065

SCHEDULE B  
PART II

In addition to the matters set forth in Part I of this Schedule, the title to the estate or interest in the land described or referred to in Schedule A is subject to the following matters, if any be shown, but the Company insures that these matters are subordinate to the lien or charge of the insured mortgage upon the estate or interest:

1. Assignment of Leases and Rents in favor of TransAtlantic Capital Company, L.L.C., recorded \_\_\_\_\_, in Official Records Book \_\_\_\_\_, page \_\_\_\_\_, Public Records of Lake County, Florida.

END OF SCHEDULE B PART II

PRO FORMA

## COMMONWEALTH LAND TITLE INSURANCE COMPANY

## FLORIDA ENDORSEMENT FORM 9

Company File No. OR984760  
Customer File No. 98-10-1065

Attached to and made a part of Policy No. OR984760-L

The Company insures the owner of the indebtedness secured by the insured mortgage against loss or damage sustained by reason of:

1. Any incorrectness in the assurance that, at Date of Policy:
  - (a) There are no covenants, conditions or restrictions under which the lien of the mortgage referred to in Schedule A can be divested, subordinated or extinguished, or its validity, priority or enforceability impaired.
  - (b) Unless expressly excepted in Schedule B:
    - (1) There are no present violations on the land of any enforceable covenants, conditions or restrictions nor do any existing improvements on the land violate building setback lines shown on a plat of subdivision recorded or filed in the public records.
    - (2) Any instrument referred to in Schedule B as containing covenants, conditions or restrictions on the land does not, in addition, (i) establish an easement on the land; (ii) provide a lien for liquidated damages; (iii) provide for a private charge or assessment; (iv) provide for an option to purchase, a right of first refusal or the prior approval of a future purchaser or occupant.
    - (3) There is no encroachment of existing improvements located on the land onto adjoining land, nor any encroachment onto the land of existing improvements located on adjoining land.
    - (4) There is no encroachment of existing improvements located on the land onto that portion of the land subject to any easement excepted in Schedule B.
    - (5) There are no notices of violation of covenants, conditions and restrictions relating to environmental protection recorded or filed in the public records.
2. Any future violation on the land of any existing covenants, conditions or restrictions occurring prior to the acquisition of title to the estate or interest in the land by the insured, provided the violation results in:
  - (a) Impairment or loss of the lien of the insured mortgage; or
  - (b) Loss of title to the estate or interest in the land if the insured shall acquire title in satisfaction of the indebtedness secured by the insured mortgage.

**PRO FORMA**

## COMMONWEALTH LAND TITLE INSURANCE COMPANY

## FLORIDA ENDORSEMENT FORM 9

Company File No. OR984760  
Customer File No. 98-10-1065

Attached to and made a part of Policy No. OR984760-L

3. Damage to existing improvements (excluding lawns, shrubbery or trees):
- (a) Which are located on or encroach upon that portion of the land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved.
  - (b) Which results from the future exercise of any right to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.
4. Any final court order or judgment requiring the removal from any land adjoining the land of any encroachment excepted in Schedule B.
5. Any final court order or judgment denying the right to maintain any existing improvement on the land because of any violation of covenants, conditions or restrictions or building setback lines shown on a plat or subdivision recorded or filed in the public records.

Wherever in this endorsement the words "covenants, conditions or restrictions" appear, they shall not be deemed to refer to or include the terms, covenants, conditions or limitations contained in an instrument creating a lease.

As used in paragraphs 1(b)(1) and 5, the phrase "covenants, conditions or restrictions" shall not be deemed to refer to or include any covenants, conditions or restrictions relating to environmental protection.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
2233 Lee Road, Suite 204  
Winter Park, FL 32789-1879  
(407) 645-1070

By \_\_\_\_\_  
Authorized Officer or Agent

October 23, 1998

426 (Form 2313-4)

Page 2 of 2

COMMONWEALTH LAND TITLE INSURANCE COMPANY

SURVEY ENDORSEMENT

Company File No. OR984760  
Customer File No. 98-10-1065

Property Described:  Residential  
 Commercial

Attached to and made a part of Policy No. OR984760-L

This Company hereby acknowledges the lands described in Schedule A are the same lands described in the survey prepared by Farnar and Associates dated October 6, 1998; however, the Company does not insure the accuracy or completeness of said survey.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
2233 Lee Road, Suite 204  
Winter Park, FL 32789-1879  
(407) 645-1070

By PRO FORMA  
Authorized Officer of PRO FORMA

October 23, 1998

## COMMONWEALTH LAND TITLE INSURANCE COMPANY

ALTA ENDORSEMENT - FORM 8.1  
ENVIRONMENTAL PROTECTION LIEN

Company File No. OR984760  
Customer File No. 98-10-1065

Attached to and made a part of Policy No. OR984760-L

The insurance afforded by this endorsement is only effective if the land is used or is to be used primarily for residential purposes.

The Company insures the insured against loss or damage sustained by reason of lack of priority of the lien of the insured mortgage over:

- a. any environmental protection lien which, at Date of Policy, is recorded in those records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge, or filed in the records of the clerk of the United States district court for the district in which the land is located, except as set forth in Schedule B, or
- b. any environmental protection lien provided for by any state statute in effect at Date of Policy, except environmental protection liens provided for by the following state statutes:

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

COMMONWEALTH LAND TITLE INSURANCE COMPANY  
2233 Lee Road, Suite 204  
Winter Park, FL 32789-  
(407) 645-1070

By PRO FORMA  
Authorized Officer or Agent

October 23, 1998

SANDPIPER  
10 PAGES

Alaks Ed  
107 Lake Shore Circle

Appleby Carlene  
1102 Sunset Court

Baker Kenneth  
509 Cardinal Drive

Balkwill Charles  
513 Cardinal

Barich Donna  
512 Cardinal Drive

Barnayzk Gerald  
402 Oak Dr

Beall Thomas  
809 Pine Dr

Beebe Gene  
709 Flamigo

Birchenough Patrick  
613 Sandpiper Drivr

Bishop Barney  
1410 Azalea Drive

Bracamontes Angela  
803 Pine Drive

Bricker Phyllis  
806 Pine Drive

Brooks Lorinda  
814 Pine Drive

Brown W.Dudley  
307 Magnolia Drive

Burke Robert  
909 Quail

Burman Glenn  
232 N Lake Shore Drive

Burns Robert  
117 Lake Shore Circle

Button Wade  
704 Flamingo Drive

8 Homes Market at 22?  
Per Month - all on  
Lake front - Lake Shore

5 Stockholders - not Paying  
at 174.20

1 Stockholder not Pay  
at 227.14



Campbell Calvin  
234 N Lake Shore Drive

Carpenter Bud  
412 Oak Drive

*Stock holder - if Paid Rent 174.20*

Carpenter Marie  
424 Oak Drive

Chain Dorothy  
802 Pine Drive

Chapel George  
802 Pine Drive

Clauser John  
302 Magnolia Drive

Coffin Jim  
1407 Asslea Drive

Coleman Arthur  
310 Magnolia Drive

Connors Lillian  
1012 Sunset Drive

Cook Frank  
703 Flamingo Drive

Cotton Calvin  
315 Magnolia Drive

Cox Bette  
224N Lake Shore Drive

*Stock holder - if Paid rent 174.20*

Coyle Gene  
614 Sandpiper Drive

Crans Milt  
619 Sandpiper Drive

Davis Estate (C. Burns)  
109 Lake Shore Circle

Dorsett Don  
506 Cardinal Drive

Ennis William  
228 N Lake Shore Dr

Eubank James  
813 Pine Drive

Faucett John  
208 Lake Shore Drive

Pedorchak Donald  
306 MAGNOLIA DRIVE

Fox Gwen  
812 Pine Drive

Frantz Lynn  
504 Cardinal Drive

Fredorchak Donald  
306 Magnolia Drive

Funk William  
710 Flamingo Drive

Gage Rose Marie  
427 Oak Drive

Garratt Athleen  
413 Oak Drive

Garrison Walter  
1102 Sunset Ct

Gladding Irene  
706 Flamingo Drive

Gobbis Michael  
907 Quail Drive

Godinsky Ann  
708 Flamingo Drive

Goeres Kleanor  
515 Cardinal Drive

Goldey Lela  
823 Pine Drive

Griffis Chuck  
113 Lake Shore Circle

Hance Wiley  
508 Cardinal Drive

Harding Irma  
605 Sandpiper Drive

Haitling Carol  
311 Magnolia Drive

Bankel Rose  
612 Sandpiper Drive

Benley James  
405 Oak Drive

Henry James  
423 Oak Drive

Bernsen Joseph  
702 Flamingo Drive

Buller Don  
1303 Oak Ct

Bulette Morris  
1304 Oak Court

Hutchinson Wayne  
401 Oak Drive

Jewell Wanda  
1404 Azalea Drive

Johnson Harold  
621 Sandpiper Drive

Johnson Shirley  
827 Pine Drive

Johnston Stuart  
1402 Azalea Drive

Jones Gwendoline  
214 N Lake Shore Drive

Joslyn Nellis  
1014 Sunset Drive

Jurgens Alfred  
417 Oak Drive

Karaffa Joseph  
608 Sandpiper Drive

Keefe Esma  
618 Sandpiper Drive

Kilsdonk Robert  
712 Flamingo Drive

Klock Airlie  
206 N Lake Shore Drive

Kuick Frank  
623 Sandpiper Drive

Lavanna Donald  
1301 Oak Ct

Leifert John  
602 Sandpiper Drive

Lewis Leona  
1414 Azalea Drive

Lisher Jerry (1) 511 Cardinal Drive  
514 Cardinal Drive

Lowe Vera  
419 Oak Drive

Lucilio Nickols  
825 Pine Drive

Luke Ed  
1408 Azalea Drive

Lundwall Vivan  
422 Oak Drive

Lytle Herman  
1008 Sunset Drive

MacMillian Thomas  
1010 Sunset Court

MacMillian Vincent  
822 Pine Drive

Mandro Hank  
1003 Sunset Dr

Martin John  
204 N Lake Shore Dr

Martin William  
420 Oak Drive

Massie Paul  
818 Pine Dr

McCary Raymond  
705 Flamingo Dr

McCollum Ralph  
303 Magnolia Drive

Miller Laurence  
624 Sandpiper Dr

Miller Mike  
230 N Lake Shore Dr

Miller William  
119 Lake Shore Circle

Moklar Dorothy  
505 Cardinal Drive

Monnett Robert  
1416 Azalea Drive

Morrow Frank  
507 Cardinal Drive

Morton Herbert  
1302 Oak Ct

Mullis Ralph (1) 315 Magnolia Drive  
218 N Lake Shore Dr

Murray William  
622 Sandpiper Dr

Myers William  
620 Sandpiper Drive

Nadon Robert  
410 Oak Drive

Nayarkas Ruth  
403 Oak Drive

Nichols William  
218 N Lake Shore Drive

New Leroy  
228 N Lake Shore Dr

Moecker Kenneth  
711 Flamingo Drive

Ogden Bowden  
616 Sandpiper Drive

Paine Don  
518 Cardinal Dr

- Stock holder - if Paid rent 174.20

Stock holder - if Paid rent 227.14

Stock holder - if Paid rent 174.20

Palmer Leon  
1203 Oak St

Patton Betty Jean  
816 Pine Drive

Pelkey Gladys  
810 Pine Drive

Pelt George  
811 Pine Drive

Pelt Ralph  
304 Magnolia

Perreault Chester  
707 Flamingo Drive

Plank William  
308 Magnolia Drive

Post Kenneth  
111 Lake Shore Circle

Pryne Kenneth  
701 Flamingo Drive

Reading Katherine  
414 Oak St

Reber Wayne  
1413 Azalea Drive

Rice Lucille  
406 Oak Drive

Richards James  
611 Sandpiper Drive

Robertson Jimmy  
415 Oak Drive

Ruddell Robert  
220 N Lake Shore Drive

*Stack holder - if Paid - 174.20*

Runge Harold  
212 N Lake Shore Dr

Rupert Beulah  
421 Oak Drive

Runge Harold  
212 N Lake Shore Drive

Sartwell James  
817 Pine Drive

Saunders Judith  
1006 Sunset Dr

Sayer William  
428 Oak Drive

Schwenk Calvin  
518 Cardinal Drive

Seals Basil  
316 Magnolia Drive

Serna Carl  
312 Magnolia Dr

Shank Monica  
115 Lake Shore Circle

Sherwood Bruce  
606 Sandpiper Drive

Shiflet Stephen  
1406 Azalea Drive

Sibo Lucille  
309 Magnolia Dr

Simpson Evie  
210 W Lake Shore Drive

Singhurse Dolores  
615 Sandpiper Drive

Singhurse Jerry  
1005 Sunset Drive

Smith Edwin  
314 Magnolia Drive

Smith Joseph  
510 Cardinal Drive

Snother Wallace  
821 Pine Drive

Sorenson Donald  
610 Sandpiper Drive

Sproatt Carl  
103 Lake Shore Circle

Stergar Joe  
1204 Oak Court

Sterling Margaret  
617 Sandpiper Drive

Stevens Claudia  
317 Magnolia Drive

Strauer Donald  
1405 Azalea Drive

Sullivan Robert  
501 Cardinal Drive

Sutton Joseph  
425 Oak Drive

A. Tahtinen Richard  
609 Sandpiper Dri

Thompson Coralie  
820 Pine Drive

Tipton Glen  
607 Sandpiper Drive

Trump Chas  
409 Oak Drive

Vandyke Fred  
902 Quail Drive

VanHandal Wilfred  
903 Quail Drive

Volk Fred  
604 Sandpiper Drive

Wackley Helen  
805 Pine Drive

Walsh Tom  
408 Oak Drive

Walters Lewis  
319 Magnolia Drive

Warringham Irma  
202 N Lake Shore Drive



Webb Edwin  
819 Pine Drive

Whitaker Forrest  
911 Quail Drive

Whitman Warren  
305 Magnolia Drive

Whitson John  
411 Oak Drive

Wichser Walter  
808 Pine Drive

Wildenberg Raymond  
1001 Sunset Dr

Williams Jack  
105 Lake Shore Circle

Wise James  
905 Quail Dr

Witten Winfred  
222 Lake Shore Drive

Wolf James  
404 Oak Dr

Wollms John  
407 Oak Drive

Wythe Joseph  
416 Oak Drive

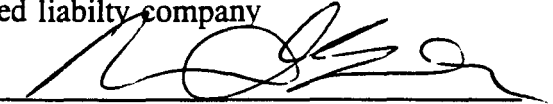
15

DISBURSEMENT AUTHORIZATION

SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., a Michigan limited liability company ("Borrower") hereby authorizes and directs (a) TRANSATLANTIC CAPITAL COMPANY, L.L.C. ("TransAtlantic") to disburse the loan in the amount of Two Million----- Dollars and No/100 (\$ 2,000,000.00) being made to Borrower on the date hereof to Commonwealth Land Title Insurance Company ("Title Company") in accordance with the wire instructions attached hereto as Exhibit A and (b) Title Company to disburse such amount in accordance with the Closing Statement attached hereto as Exhibit B.

Dated: October 26, 1998.

SANDPIPER MOBILE MANOR  
ASSOCIATES, L.L.C., a Michigan  
limited liability company

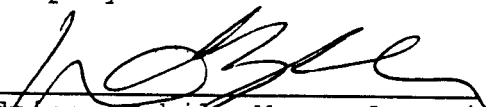
By: 

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**CERTIFICATION**

The foregoing is a true and accurate copy of the Operating Agreement for Sandpiper Mobile Manor Associates, L.L.C., a Michigan limited liability company.

  
\_\_\_\_\_  
Sandpiper Mobile Manor Associates, L.L.C.  
Peter Beer, Managing Member

**OPERATING AGREEMENT**  
for  
**SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.**  
a Michigan limited liability company

This Operating Agreement is made and entered into this day of September, 1998, by and between Peter Beer, Benedetto Sorrentino, Thomas Barnett, Ivan Bloch and Lake Yale, Inc. ("Outside Corporate Member"), which are collectively referred to herein as the "Members", of Sandpiper Mobile Manor Associates, L.L.C., a Michigan Limited Liability Company (the "Company"), who agree as follows:

**Article I**  
**Organization**

1.1 Formation. The Company has been organized as a Michigan Limited Liability Company pursuant to the Michigan Limited Liability Company Act, being Act No. 23, Public Acts of 1993, by the filing of Articles of Organization (the "Articles") with the State of Michigan Department of Commerce.

1.2 Name. The name of the Company shall be Sandpiper Mobile Manor Associates, L.L.C..

1.3 Purposes. The Company has been formed for the sole purpose of owning & operating the Sandpiper Mobile Manor development ("Property"), located in Lake County, Florida. Further, the nature of the business and of the purposes to be conducted and promoted by the limited liability company is to engage solely in the following activities:

A. To acquire from Lake Yale Corporation the Sandpiper Mobile Manor development, located in Lake County, Florida.

B. To own, hold, sell, assign, transfer, operate, mortgage, pledge and otherwise deal with the Property.

C. To exercise all powers enumerated in the Michigan Limited Liability Company Act, necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

1.4 Duration. The Company shall continue in existence for the period fixed in the Articles of Organization or until the Company shall be dissolved sooner and its affairs wound up in accordance with the Act and this Operating Agreement.

1.5 Registered Office and Registered Agent. The Registered Office and Resident Agent of the Company shall be as designated in the Articles of Organization or any amendment thereof. The

Registered Office and/or Registered Agent may be changed from time to time. Any such change shall be made in accordance with the Act. If the Resident Agent resigns, the Company shall promptly appoint a successor.

1.6 Limited Liability Company Status. The Members have formed the Company as a single purpose, bankruptcy remote limited liability company pursuant to the Act. The Members specifically intend and agree that the Company not be a partnership (including a limited partnership) or any other venture, but a limited liability company pursuant to the Act.

1.7. Agreement. For and in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Members executing this Operating Agreement hereby agree to the terms and conditions herein, as they may be from time to time amended. It is the express intention of the Members that this Operating Agreement, and any amendments thereto, shall be the sole source of agreement of the parties and, except to the extent a provision of this Operating Agreement expressly incorporates federal income tax rules by reference to sections of the Internal Revenue Code (the "Code") or Regulations thereunder, or is expressly prohibited or ineffective under the Act, this Operating Agreement shall govern, even when inconsistent with, or different than, the provisions of the Act or any other law or rule. To the extent that any provision of this Operating Agreement is prohibited or ineffective under the Act, this Operating Agreement shall be considered amended to the in order to make the agreement effective under the Act.

## **Article II Books, Records and Accounting**

2.1 Books and Records. The Company shall maintain complete and accurate books and records of the Company's business and affairs as required by the Act and such books and records shall be kept at the Company's Registered Office.

2.2 Fiscal Year; Accounting. The Company's fiscal year shall be the calendar year. The particular accounting methods and principles to be followed by the Company shall be selected by the Managing Member from time to time.

2.3 Reports. The Managing Member shall provide reports concerning the financial condition and results of operation of the Company and the Capital Accounts of the Members to the Members in the time, manner and form as the Managing Member determines. Such reports shall be provided at least annually as soon as practicable after the end of each calendar year and shall include a statement of each Member's share of profits and other items of income, gain, loss, deduction and credit.

2.4 Members' Accounts. Separate capital accounts (the "Capital Accounts") shall be established and maintained by the Company. Each Member's Capital Account shall reflect the Member's capital contributions and increases for the Member's share of any net income or gain of the Company. Each Member's Capital Account shall also reflect decreases for distributions made to the Member and the Member's share of any losses and deductions of the Company.

2.5 Compliance with Section 704(b) of the Code. The provisions of this Article, as they relate to the maintenance of Capital Accounts, are intended, and shall be construed and, if necessary, modified to cause the allocations of profits, losses, income, gain and credit pursuant to Article IV, to have substantial economic effect under the Regulations promulgated under Section 704(b) of the Code, in light of the distributions and capital contributions made pursuant to this Operating Agreement. Notwithstanding anything to the contrary, this Operating Agreement shall not be construed to create a deficit restoration obligation or to otherwise personally obligate any Member beyond the terms and conditions of this Operating Agreement.

### **Article III Capital Contributions**

3.1 Initial Commitments and Contributions. Each Member shall make the Capital Contribution described on the attached Exhibit A. If no time for contribution is specified, the Capital Contribution shall be made upon the filing of the Articles of Organization. Any additional Member (other than an assignee of a membership interest who has been admitted as a Member) shall make the Capital Contribution set forth in an Admission Agreement. No interest shall accrue on any Capital Contribution and no Member shall have any right to withdraw or to be repaid any Capital Contribution, except as provided in this Operating Agreement.

3.2 Additional Contributions. In addition to the initial Capital Contributions, the Managing Member may determine from time to time that additional capital contributions are needed to enable the Company to conduct its business and affairs. Upon making such a determination, notice thereof shall be given to all Members in writing at least ten (10) business days prior to the date on which a meeting of the Members shall be required to contribute such additional capital contributions in the amounts so determined as necessary. Such notice shall describe, in reasonable detail, the purposes and uses of such additional capital, the amounts of additional capital proposed and the date by which payment of the additional capital is required to be paid.

3.3 Failure to Contribute. If any such Member fails to make a capital contribution when required, the Company may, in addition



to the other rights and remedies the Company may have under the Act or applicable law, take such enforcement action (including the commencement and prosecution of court proceedings) against such Member as the Managing Member considers appropriate. Moreover, the remaining Members may elect to contribute the amount of such required capital themselves according to the respective Membership Interests. In such an event, the remaining Members shall be entitled to treat such amounts as an extension of credit to such defaulting Member, payable upon demand, with interest accruing thereon at the rate of ten percent (10%) per annum until paid, all of which shall be secured by such defaulting Member's interest in the Company, each member who may hereafter grant such extension of credit, a security interest in such defaulting Member's interest in the Company.

#### **Article IV Allocations and Distributions**

##### **4.1 Allocations.**

A. Except as may be required by the Internal Revenue Code, as amended, or this Operating Agreement, net profits, net losses and other items of income, gain, loss, deduction and credit of the Company shall be allocated among the Members in accordance with their Membership Interests as set forth on Exhibit A.

##### **4.2 Distributions.**

A. The Managing Member may make distributions to the Members from time to time. Distributions may be made only after the Managing Member determines in his reasonable judgment that the Company has sufficient cash on hand which exceeds the current and the anticipated costs and expenses of the Company to fulfill its business purposes (including operating expenses, debt service, acquisitions, reserves and mandatory distributions, if any) and only after a majority vote of the Members approving such distributions. All distributions shall be made to the Members in accordance with their Membership Interests. Distributions shall be in cash or property or both, as determined by the Managing Member. No distribution shall be declared or made if, after said distribution, the Company would not be able to pay its debts as they become due in the usual course of business or the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed if the Company were to be dissolved at the time of the distribution to satisfy the rights of Members upon dissolution pursuant to Section 9.2 hereof, to receive positive capital accounts and the satisfaction of liabilities for distributions that are superior to the rights of the Members receiving the distribution.

**4.3 Annual Distributions.** Subject to the limitations contained in the Act, the Company shall make pro rata annual distributions of cash to the Members in sufficient amount to pay federal, state

and local income taxes on the income that passes through to the Members under Internal Revenue Code ("IRC") 702, reduced by any tax benefits produced by losses, deductions and credits that pass through under IRC 702. Each Member is assumed to be taxable at the highest marginal federal, state and local income tax rates applicable to married individuals filing separate tax returns and to fully utilize any losses, deductions and credits passed through under IRC 702. If the Company fails to make a required distribution, after thirty (30) days written notice to the Company, any Member is free to seek a court order compelling such distribution.

## **Article V Disposition of Membership Interests**

5.1 General. Every sale, assignment, transfer, exchange, mortgage, pledge, grant, hypothecation or other disposition of any Membership Interest shall be made only upon compliance with this Article. No Membership Interest shall be disposed of if the disposition would cause a termination of the Company under the Internal Revenue Code, as amended, without compliance with any and all federal and state securities laws and regulations; and unless the assignee of the Membership Interest provides the Company with the information and agreements that the Managing Member may require in connection with such disposition. Any attempted disposition of a Membership Interest in violation of this Article is null and void.

5.2 Permitted Dispositions. Subject to the provisions of this Article, a Member may assign a Membership Interest in the Company in whole or in part. The assignment of a Membership Interest does not itself entitle the assignee to participate in the management and affairs of the Company or to become a Member. Such assignee is only entitled to receive, to the extent assigned, the distributions the assigning Member would otherwise be entitled to receive.

5.3 Admission of Substitute Members. An assignee of a Membership Interest shall be admitted as a Substitute Member and shall be entitled to all the rights and powers of the assignor only if the other Members unanimously consent. If admitted, the Substitute Member has, to the extent assigned, all of the rights and powers, and is subject to all of the restrictions and liabilities of a Member.

5.4 Right of First Refusal Option. A Membership Interest in the Company can only be transferred if the Member desiring to make the transfer first offers all of his or her Membership Interest for purchase to the other Members. The offer must be in writing and state the offeror's name and address, the Membership Interest offered, the offering price and the other terms of the offer. A person desiring to transfer a Membership Interest in the Company pursuant to this Section shall deliver the offer to the other

Members and, by doing so, offers to sell the Membership Interest covered by the offer to the other Members for the same price and the same terms as that set forth in the offer. A written notice of acceptance of the offer by the other Members shall be delivered to the offering Member within forty-five (45) days after receiving the offer or the offer shall be deemed to be rejected. If the offer to purchase a Membership Interest pursuant to this Section is rejected, the offering Member shall be entitled to sell to a third party, subject to the requirements of this Section, all (but not less than all) of the offered Membership Interest in accordance with the terms of the Member's offer to the other Members for a period of ninety (90) days after the other Members reject the offer.

#### **Article VI Meetings of Members**

6.1 Voting. All Members shall be entitled to vote on any matter submitted to a vote of the Members or upon any matter which any Member demands a vote. By way of illustration and not limited to, the Members shall have the right to vote on all of the following: (a) the dissolution of the Company pursuant to Paragraph 9.1(c) of this Operating Agreement; (b) an amendment to the Articles of Organization; or (c) the sale, exchange, lease or other transfer of all or substantially all of the assets of the Company other than in the ordinary course of business.

When acting on matters subject to the vote of the Members, notwithstanding that the limited liability company is not then insolvent, the Members and the Outside Member shall take into account the interest of the limited liability company's creditors, as well as those of the Members.

6.2 Required Vote. Unless a greater vote is required by the Act or the Articles of Organization, the affirmative vote or consent of a majority of the Members entitled to vote or consent on such matter shall be required.

6.3 Meetings. An annual meeting of Members shall be held at such place, on such date and at such time as the Managing Member shall determine for the transaction of such business as may properly come before the meeting. Special meetings of Members for any proper purpose or purposes may be called at any time by the Managing Member or the holders of at least ten percent (10%) of the Membership Interests of all Members. The Company shall deliver or mail written notice stating the date, time, place and purposes of any meeting to each Member entitled to vote at the meeting. Such notice shall be given not less than then (10) nor more than sixty (60) days before the date of the meeting. All meetings of Members shall be presided over by a Chairperson who shall be designated by the Managing Member.

6.4 Consent. Any action required or permitted to be taken at an annual or special meeting of the Members may be taken without a meeting, without prior notice, and without a vote, if consents in writing, setting forth the action so taken, are signed by the Members having not less than a minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Membership Interests entitled to vote on the action were present and voted. Every written consent shall bear the date and signature of each Member who signs the consent. Prompt notice of the taking of action without a meeting by less than unanimous written consent shall be given to all Members who have not consented in writing to such action.

## **Article VII Management**

7.1 Management of Business. The Company shall be managed by the Managing Member who shall be designated by a resolution of the Members. The terms, duties, compensation and benefits, if any, of the Managing Member shall be determined by the Members. The Managing Member shall serve at the will and pleasure of the Members. The initial Manager shall be Peter Beer and he shall receive from the Company full reimbursement for any all costs and expenditures which he might advance on behalf of the Company.

7.2 General Powers of Managing Member. Except as may otherwise be provided in this Operating Agreement, the ordinary and usual decisions concerning the business and affairs of the Company shall be made by the Managing Member. The Members hereby agree that only the Managing Member and authorized agents of the Company shall have the authority to bind the Company. Any Member who takes such action to bind the Company shall indemnify the Company for any costs or damages incurred by the Company as a result of the unauthorized action of such Member. The Managing Member has the power, on behalf of the Company, to do all things necessary or convenient to carry out the business and affairs of the Company, including, without limitation: (a) the institution, prosecution and defense of any proceeding in the Company's name; (b) the purchase, receipt, lease or other acquisition, ownership, holding, improvement, use and other dealing with the Property; (c) the entering into contracts to operate the Property; (d) the conduct of the Company's business, the establishment of Company offices and the exercise of the powers of the Company within or outside the State of Michigan; (e) the appointment of employees and agents of the Company, the defining of their duties, the establishment of their compensation; (f) the payment of pensions and establishment of pension plans, pension trusts, profit sharing plans and benefit and incentive plans for all or any of the current or former Members, employees and agents of the Company; (g) the making of donations to the public welfare or for religious, charitable, scientific, literary or educational purposes; (h) the payment or donation, or any other act that

further the business and affairs of the Company; (i) the payment of compensation or additional compensation to any or all Members and employees on account of services previously rendered to the Company, whether or not an agreement to pay such compensation was made before such services were rendered; (j) the purchase of insurance on the life of any of its Members or employees for the benefit of the Company; (k) the indemnification of Members or any other person pursuant to the provisions of this Operating Agreement.

7.3 Limitations. Notwithstanding the foregoing and any other provision contained in this Operating Agreement to the contrary, no act shall be taken, sum expended, decision made, obligation incurred or power exercised by the Managing Member on behalf of the Company except by the unanimous consent of all Members with respect to: (a) any significant and material purchase, receipt, lease, sale, exchange or other acquisition or disposition of any real or personal property, inventory or business; (b) the sale of all or substantially all of the assets and property of the Company; (c) any loan, mortgage, grant of security interest, pledge or encumbrance upon any of the assets and property of the Company, or the modification of any loan, mortgage, security interest or pledge; (d) any merger; (e) any amendment or restatement of the Articles of Organization or this Operating Agreement; (f) any matter which could result in a change in the amount or character of the Company's capital; (g) any change in the character of the business and affairs of the Company; (h) the commission of any act which would make it impossible or difficult for the Company to carry on its ordinary business and affairs; (i) the setting or the modification of the compensation and/or salary of the Manager; or (j) any act that would contravene any provision of the Articles of Organization, this Operating Agreement or the Act.

Notwithstanding the foregoing, the limited liability company shall only incur indebtedness in an amount necessary to acquire, operate and maintain the Property. For so long as any mortgage lien in favor of TransAtlantic Capital Company, L.L.C. or its successors or assigns (the "First Mortgage") exists on any portion of the Property, the limited liability company shall not incur, assume, or guaranty any other indebtedness. The limited liability company shall not dissolve or liquidate, or consolidate or merge with or into any other entity, or convey or transfer its properties and assets substantially as an entirety or transfer any of its beneficial interests to any entity. For so long as the First Mortgage exists on any portion of the Property, the limited liability company will not voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of all of the Members of the limited liability company. For so long as the First Mortgage exists on any portion of the Property, no material amendment to these Articles of

Organization may be made without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property.

7.4 Standard of Care; Liability. The Managing Member shall discharge his or her duties in good faith with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner he or she reasonably believes to be in the best interests of the Company. The Managing Member shall not be liable for any monetary damages to the Company for any breach of such duties except for receipt of a financial benefit, to which the Managing Member is not entitled; voting for or assenting to a distribution to Members in violation of this Operating Agreement or the Act; or a knowing violation of the law.

7.5 Indemnification. The Company shall indemnify the Members, Managing Member, employees and agents for all costs, losses, liabilities and damages paid or accrued by such Member, Managing Member, employee or agent in connection with the business of the Company, to the fullest extent provided or allowed by the laws of the State of Michigan.

Any indemnification of the limited liability company's Members shall be fully subordinated to any obligations respecting the Property (including, without limitation, the First Mortgage) and such indemnification shall not constitute a claim against the limited liability company in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations.

7.6 Separateness Covenants. For so long as the First Mortgage exists on any portion of the Property, in order to preserve and ensure its separate and distinct identity, in addition to the other provisions set forth in these Articles of Organization, the limited liability company shall conduct its affairs in accordance with the following provisions:

- A. It shall establish and maintain an office through which its business shall be conducted separate and apart from that of any of its Members or affiliates or, if it shares office space with its parent or any affiliate, it shall allocate fairly and reasonably any overhead for shared office space.
- B. It shall maintain records and books of account separate from those of any Member or affiliate.
- C. It shall observe all limited liability company formalities.
- D. It shall not commingle assets with those of any Member or affiliate.

- E. It shall conduct its own business in its own name.
- F. It shall maintain financial statements separate from any Member or affiliate.
- G. It shall pay any liabilities out of its own funds, including salaries of any employees, not funds of any Member or affiliate.
- H. It shall maintain an arm's length relationship with any member or affiliate.
- I. It shall not guarantee or become obligated for the debts of any other entity, including any Member or affiliate, or hold out its credit as being available to satisfy the obligations of others.
- J. It shall use stationary, invoices and checks separate from any Member or affiliate.
- K. It shall not pledge its assets for the benefit of any other entity, including any Member or affiliate.
- L. It shall hold itself out as a entity separate from any Member or affiliate.
- M. It shall have a corporate managing member which shall be organized to be a single purpose, "bankruptcy remote" entity with organizational documents substantially similar to the organizational documents of the current corporate managing member of the limited liability company.

For purposes of this Paragraph 7.6, the following terms shall have the following meanings:

"affiliate" means any person controlling or controlled by or under common control with the limited liability company including, without limitation, (i) any person who has a familial relationship, by blood, marriage or otherwise with any partner or employee of the limited liability company, or any affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from this limited liability company, or any affiliate. For purposes of this definition, "control" when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unin-

corporated organization, or government or any agency or political subdivision thereof.

**Article VIII**  
**Exculpation of Liability**

8.1 Exculpation of Liability. Unless otherwise provided by law or expressly assumed, a person who is a Member or Managing Member, or both, shall not be liable for the acts, debts or liabilities of the Company.

**Article IX**  
**Dissolution and Winding Up**

9.1 Dissolution. The Company shall dissolve and its affairs shall be wound up on the first to occur of the following events: (a) at any time specified in the Articles of Organization of this Operating Agreement; (b) upon the happening of any event specified in the Articles of Organization or this Operating Agreement; (c) by the unanimous consent of all of the Members; (d) upon the death, withdrawal, or expulsion or the occurrence of any other event that terminates the continued membership of a Member.

To the extent permissible under applicable federal and state tax law, the vote of a majority-in-interest of the remaining Members is sufficient to continue the existence of the limited liability company. If such vote is not obtained, for so long as the First Mortgage exists on any portion of the Property, the limited liability shall not liquidate the Property without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property. Such holders may continue to exercise all of their rights under the existing security agreements or mortgages until the debt underlying the First Mortgage has been paid in full or otherwise completely discharged.

9.2 Winding Up. Upon dissolution, the Company shall cease carrying on its business and affairs and shall commence the winding up of the Company's business and affairs and complete the winding up as soon as practicable. Upon the winding up of the Company, the assets of the Company shall be distributed first to creditors, to the extent permitted by law, in satisfaction of Company debts, liabilities and obligations and then to Members and former Members, first, in accordance with their positive Capital Account balances (taking into account all Capital Account adjustments for the Company's taxable year in which the liquidation occurs), second, in satisfaction of liabilities for distributions, and, then, in accordance with their Membership Interests. Such proceeds shall be paid to such Members within ninety (90) days after the date of winding up.

9.3 Option to Purchase on Dissolution. If, at the time of dissolution, only one (1) of the Members is providing services to the Company in an executive capacity, the membership interest



owned by the other Member shall be offered for sale at the price and other terms specified herein. The Member who is providing services to the Company shall have a first option to purchase some or all of the membership interests in question. This option must be exercised within sixty (60) days after the occurrence of the event causing dissolution. The value of the membership interest to be purchased pursuant hereto shall be the net fair market value as of the last day of the month in which the dissolution event occurred as determined by the mutual agreement of the selling Member (or his successor in interest) (the "Selling Member") and the purchaser or purchasers (the "Purchaser"). If the Selling Member and the Purchaser cannot agree on the value of the membership interest within fifteen (15) days of the date the Purchaser has given notice that the Purchaser is exercising his or her option hereunder, then the fair market value of the membership interest shall be determined by appraisal as follows:

The Selling Member and the Purchaser shall each appoint, at their own cost, within fifteen (15) days following the expiration of the time for mutual agreement has expired a qualified appraiser ("Qualified Appraiser") who shall be a professional appraiser or certified public accountant qualified by experience and ability to appraise the membership interest of a closely held business. If both Qualified Appraisers agree on the fair market value of the membership, their opinion, which shall be submitted in writing, shall be conclusive and binding on both the Selling Member and the Purchaser. If only one (1) of the parties appoints a Qualified Appraiser, that appraiser's written opinion on the fair market value of the membership interest in question shall be conclusive and binding on both the Selling Member and the Purchaser. If the two (2) Qualified Appraisers disagree on the fair market value of the membership interest, they shall appoint a third Qualified Appraiser mutually acceptable to them, and the written opinion of the third Qualified Appraiser, whose fees and expenses shall be divided equally between the Selling Member and the Purchaser, shall be conclusive and binding as to the fair market value of the membership interest to be purchased. Provided, however, that if the value of the membership interest in question found by the third Qualified Appraiser is greater than the highest of the first two (2) appraisals, the highest of the first two (2) appraisals shall constitute the "appraised value" of the membership interest and if their value as found by the third appraiser is less than the lowest of the first two (2) appraisals, the lower of the first two (2) appraisals shall constitute the "appraised value" of the membership interest.

#### **Article X Amendment**

10.1 Operating Agreement May Be Modified. This Operating Agreement may be modified as provided in this Article X (as the same may, from time to time, be amended). No Member or Managing

Member shall have any vested rights in this Operating Agreement which may not be modified through an amendment to this Operating Agreement.

10.2 Amendment or Modification of Operating Agreement. This Operating Agreement may be amended or modified from time to time only by a written instrument adopted by the Managing Member and executed by a majority of the Members.

10.3 Rights of Creditors under Operating Agreement. This Operating Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members and their successors and assignees. This Operating Agreement is expressly not intended for the benefit of any creditor of the Company or any other person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under this Operating Agreement or any agreement between the Company and any Member with respect to any capital contribution or otherwise.

#### **Article XI Miscellaneous Provisions**

11.1 Terms. Nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person or persons, firm or corporation may in the context require.

11.2 Article Headings. The Article headings contained in this Operating Agreement have been inserted only as a matter of convenience and for reference, and in no way shall be construed to define, limit or describe the scope or intent of any provision of this Operating Agreement.

11.3 Counterparts. This Operating Agreement may be executed in several counterparts, each of which will be deemed an original but all of which will constitute one and the same.

11.4 Entire Agreement. This Operating Agreement constitutes the entire agreement among the parties hereto and contains all of the agreements among said parties with respect to the subject matter hereof. This Operating Agreement supersedes any and all other agreements, either oral or written, between the parties with respect to the subject matter hereof.

11.5 Severability. The invalidity or unenforceability of any particular provision of this Operating Agreement shall not affect the other provisions hereof, and this Operating Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

11.6 Notices. Any notice permitted or required under this Operating Agreement shall be conveyed to the party at the address reflected in this Operating Agreement and will be deemed to have been given, when deposited in the United States mail, postage prepaid, or when delivered in person, or by courier or by facsimile transmission.

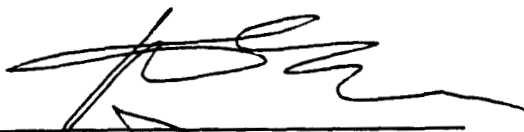
11.7 Binding Effect. Subject to the provisions of this Operating Agreement relating to transferability, this Operating Agreement will be binding upon and shall inure to the benefit of the parties and their respective distributee, heirs, successors and assigns.

11.8 Governing Law. This Operating Agreement is being executed and delivered in the State of Michigan and shall be governed by, construed and enforced in accordance with the laws of the State of Michigan.

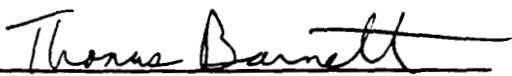
The Members have executed this Operating Agreement as of the date first written above.



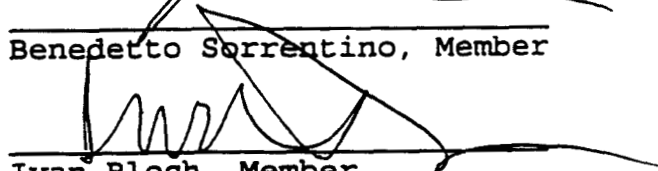
Peter Beer, Managing Member



Benedetto Sorrentino, Member



Thomas Barnett, Member



Ivan Bloch, Member

Lake Yale, Inc.  
By: Peter Beer, President  
Outside Corporate Member

EXHIBIT "A"

MEMBERSHIP INTERESTS

<u>Name</u>	<u>Type of Interest</u>	<u>Initial Contribution</u>	<u>% Interest</u>
Peter Beer	Managing Member	\$210,000.00	29 1/4%
Benedetto Sorrentino	Member	\$210,000.00	29 1/4%
Thomas Barnett	Member	\$210,000.00	29 1/4%
Ivan Bloch	Member	\$ 70,000.00	9 1/4%
Lake Yale, Inc.			
Outside Corporate Member		\$ 1.00	1 %

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CONSENT ACTION OF THE MEMBERS

of

SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.

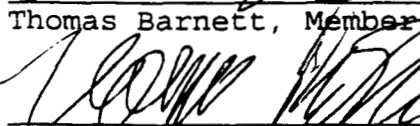
Pursuant to Paragraph 6.4 of the Operating Agreement, the undersigned, being all of the Members of Sandpiper Mobile Manor Associates, L.L.C., a duly organized Michigan limited liability company (hereinafter referred to as the "Company"), hereby unanimously consent to and authorize the actions hereinafter described on behalf of the Company, and further, direct that this written consent be filed as part of the minutes of the Company. The aforesaid actions, consented to and authorized hereunder are as follows:

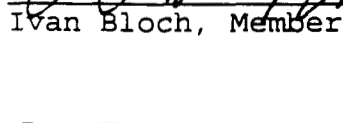
1. The Members hereby acknowledge, agree and authorize the Company to borrow the total principal amount of Two Million (\$2,000,000.00) Dollars from TransAtlantic Capital Company, to be used for the purchase of Sandpiper Mobile Manor, a 174 lot mobile home park located in Leesburg, Florida.
2. The Members hereby further authorize Manager, Peter Beer, to execute any and all documents which may be necessary to consummate the loan transaction with TransAtlantic Capital Company.
3. The foregoing is a true and correct copy of this Consent Action by Sandpiper Mobile Manor Associates, L.L.C., and the signatures contained are the actual signatures of the Members.

Sandpiper Mobile Manor Associates, L.L.C.

  
Peter Beer, Managing Member

  
Benedetto Sorrentino, Member

  
Thomas Barnett, Member

  
Ivan Bloch, Member

  
Ronald Ossipove, Member

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MICHIGAN DEPARTMENT OF COMMERCE - CORPORATION AND SECURITIES BUREAU

Date Received		(FOR BUREAU USE ONLY)

Name Mark Capaldi		
Address 10 West Long Lake, Suite 135		
City Bloomfield Hills, MI	State MI	Zip Code 48304

EFFECTIVE DATE:

Document will be returned to the name and address you enter above

ARTICLES OF ORGANIZATION

L	C		-			
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For use by Domestic Limited Liability Companies

(Please read information and instructions on last page)

Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned execute the following Articles:

ARTICLE I

The name of the limited liability company is: Sandpiper Mobile Manor Associates, L.L.C

ARTICLE II

The purpose or purposes for which the limited liability company is formed is to engage in any activity within the purposes for which a limited liability company may be formed under the Limited Liability Company Act of Michigan.

(see attached for additional information)

ARTICLE III

The duration of the limited liability company is: Fifty (50) years

ARTICLE IV

1. The address of the registered office is:

18700 W. 10 Mile Road, Southfield, Michigan 48075

2. The mailing address of the registered office if different than above: n/a

(P.O. Box) (City) Michigan (ZIP Code)

3. The name of the resident agent at the registered office is: Peter Beer

Signed this 8th day of October, 1998

Ivan Bloch Member

Benedetto Sorrentino Member

Peter Beer Managing Member, Thomas Barrett Member

Lake Yale, Inc., Outside Corporate Member

(Type or Print Name)

(Type or Print Name)



Name of Person or Organization  
Remitting Fees:

Mark Capaldi

Mark Capaldi

Preparer's Name and Business

Telephone Number: 248-593-8400

( )

## INFORMATION AND INSTRUCTIONS

1. The articles of organization cannot be filed until this form, or a comparable document, is submitted.
2. Submit one original of this document. Upon filing, the document will be added to the records of the Corporation and Securities Bureau. The original will be returned to the address you enter in the box on the front as evidence of filing.  
  
Since this document will be maintained on optical disc media, it is important that the filing be legible. Documents with poor black and white contrast, or otherwise illegible, will be rejected.
3. This document is to be used pursuant to the provisions of Act 23, P.A. of 1993, by two or more persons for the purpose of forming a domestic limited liability company.

Article I - The name of a domestic limited liability company is required to contain one of the following words or abbreviations: "Limited Liability Company", "L.L.C.", or "L.C."

- i. Article II - Under section 203(b) of the Act, it is sufficient to state substantially, alone or with specifically enumerated purposes, that the limited liability company is formed to engage in any activity within the purposes for which a limited liability company may be formed under the Act.

Article III - The term of existence of the limited liability company must be stated.

Article IV - A post office box may not be designated as the address of the registered office.

This document is effective on the date endorsed "Filed" by the Bureau. A later effective date, no more than 90 days after the date of delivery, may be stated as an additional article.

The articles must be signed in ink by two or more of the persons who will be members. Names of person signing shall be stated beneath their signatures.

FEES: Make remittance payable to the State of Michigan. Include limited liability company name on check or money order. Nonrefundable filing fee ..... \$50.00

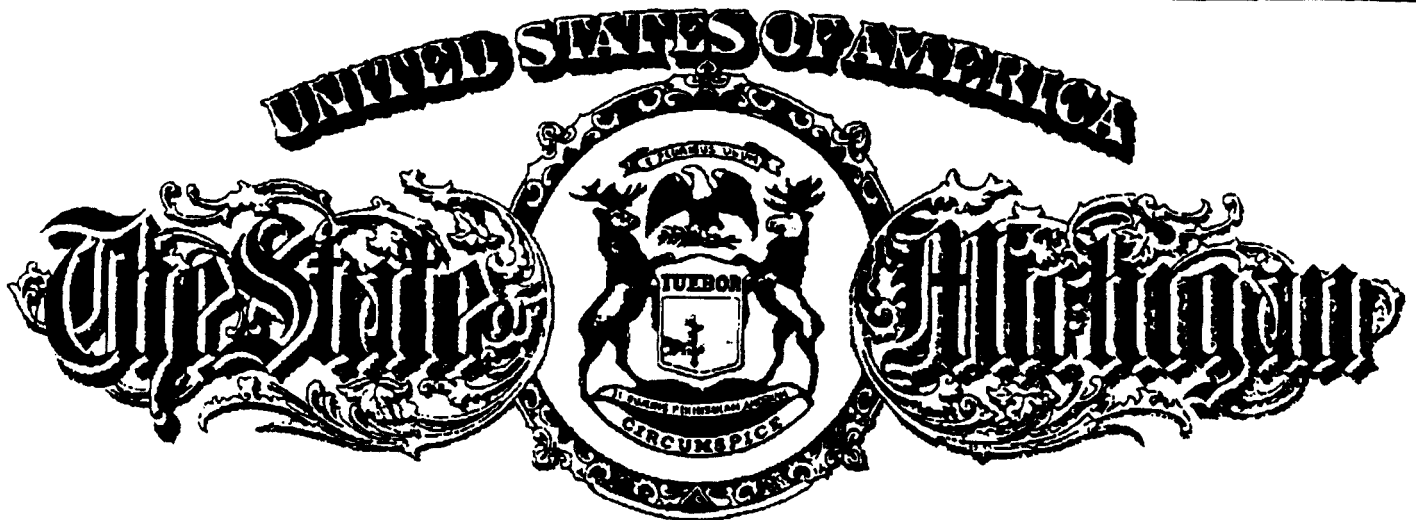
Mail form and fee to:

The office is located at:

Michigan Department of Commerce  
Corporation and Securities Bureau  
Corporation Division  
P.O. Box 30054  
Lansing, MI 48909-7554

6546 Mercantile Way  
Lansing, MI 48910  
(517) 334-6302

19



**Michigan Department of Consumer and Industry Services**

**Lansing, Michigan**

*This is to Certify That*

**SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.**

*a Michigan limited liability company, filed Articles of Organization in this office on October 15, 1998.*

*I FURTHER CERTIFY that the Articles are in full force and effect as of this date, and a Certificate of Dissolution has not been filed.*

*This certificate is in due form, made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.*

*In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 20th day of October, 1998.*

*Julie Croll*

, Director

171L 0393416

Corporation, Securities and Land Development Bureau

20

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the application by SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C., a Michigan limited liability company, authorized to transact business within the state of Florida on October 22, 1998, as shown by the records of this office.

The document number of this limited liability company is M98000001234.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Twenty-second day of October, 1998



CR2EO22 (2-95)

*Sandra B. Northam*

Sandra B. Northam  
Secretary of State

**APPLICATION BY FOREIGN LIMITED LIABILITY COMPANY FOR AUTHORIZATION TO  
TRANSACT BUSINESS IN FLORIDA**

*IN COMPLIANCE WITH SECTION 608.503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN LIMITED LIABILITY COMPANY TO TRANSACT BUSINESS IN THE STATE OF FLORIDA:*

1. Sandpiper Mobile Manor Associates, L.L.C.  
(Name of foreign limited liability company must end with the words "limited company" or their abbreviation "L.C." if not so contained in the name at present.)

2. Michigan 3. \_\_\_\_\_  
(Jurisdiction under the law of which foreign limited liability company is organized) (FEI number, if applicable)

4. October 15, 1998 5. Perpetual  
(Date of Organization) (Duration: Year limited liability company will cease to exist or "perpetual")

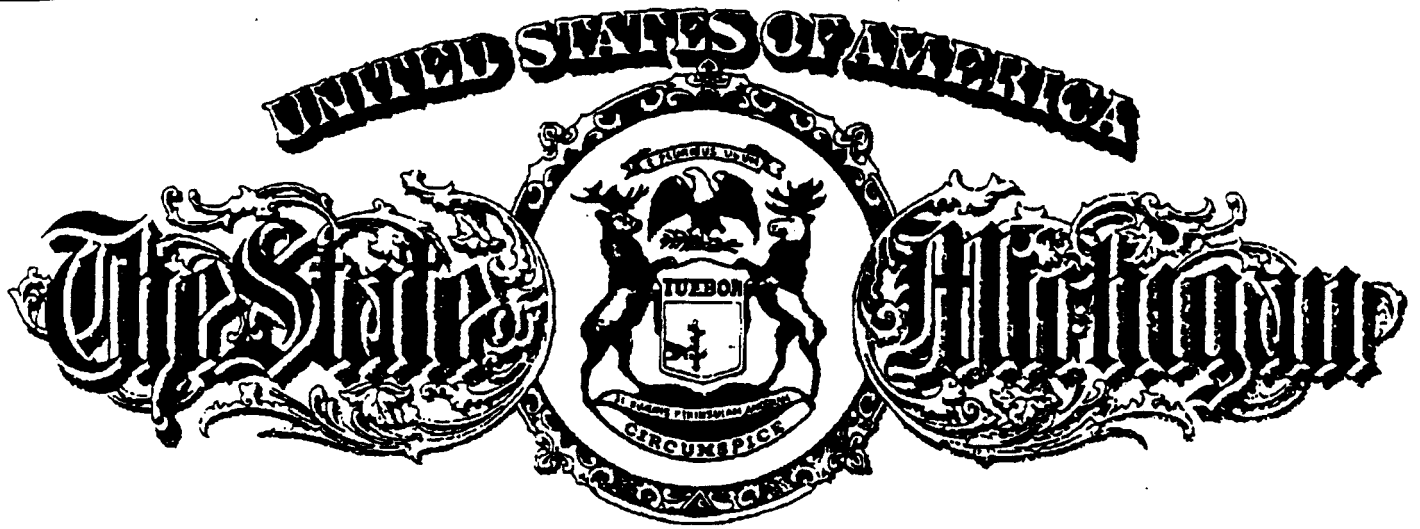
6. Upon qualification  
(Date first transacted business in Florida. (See sections 608.501, 608.502, and 817.155, F.S.))

7. 18700 W. 10 Mile  
Southfield, MI 48075  
(Street address of principal office)

8. List name, title, and business address of each managing member[MGRM] or manager[MGR] who will manage the foreign limited liability company in Florida: (attach additional page if necessary)

NAME & ADDRESS:	TITLE:	NAME & ADDRESS:	TITLE:
<u>Peter Beer</u>	<u>MGRM</u>	_____	_____
<u>18700 W. 10 Mile</u>		_____	
<u>Southfield, MI 48075</u>		_____	
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

59 OCT 22 PM 3 34  
 STATE OF FLORIDA  
 DIVISION OF CORPORATE  
 RECORDS



**Michigan Department of Consumer and Industry Services**

**Lansing, Michigan**

*This is to Certify That*

**SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.**

*a Michigan limited liability company, filed Articles of Organization in this office on October 15, 1998.*

*I FURTHER CERTIFY that the Articles are in full force and effect as of this date, and a Certificate of Dissolution has not been filed.*

*This certificate is in due form, made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.*

98 OCT 22 PM 3:34  
SECTION OF REGISTRATIONS

*In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 20th day of October, 1998.*

*Julie Croll*

, Director

171L 0393416

Corporation, Securities and Land Development Bureau

**CERTIFICATE OF DESIGNATION OF  
REGISTERED AGENT/REGISTERED OFFICE**

PURSUANT TO THE PROVISIONS OF SECTION 608.415 or 608.507, FLORIDA STATUTES, THE UNDERSIGNED LIMITED LIABILITY COMPANY SUBMITS THE FOLLOWING STATEMENT IN DESIGNATING THE REGISTERED OFFICE/REGISTERED AGENT, IN THE STATE OF FLORIDA.

1. The name of the limited liability company is:

Sandpiper Mobile Manor Associates, LLC

2. The name and address of the registered agent and office is:

David D. Eastman

(Name)

101 South Monroe Street

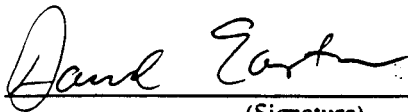
(P.O. Box or Mail Drop Box **NOT** ACCEPTABLE)

Tallahassee, FL 32301

(City/State/Zip)

SECRETARY OF STATE  
DIVISION OF CORPORATE & FINANCIAL SERVICES  
98 OCT 22 PM 3:34

*Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.*



(Signature)

10-22-98

(Date)

**Filing Fee: \$ 35 for Designation of Registered Agent**



**AFFIDAVIT OF MEMBERSHIP AND CONTRIBUTIONS OF FOREIGN  
LIMITED LIABILITY COMPANY**

The undersigned member or authorized representative of a member of Sandpiper  
Mobile Manor Associates, L.L.C. deposes and says:

1) the above named limited liability company has at least two members

2) the total amount of cash contributed by the member(s) is \$ -0-

3) if any, the agreed value of property other than cash contributed by member(s) is \$ -0-  
A description of the property is attached and made a part hereto.

4) the amount of cash or property anticipated to be contributed by member(s) is \$ -0-  
This total includes amounts from 2 and 3 above.

5) the total amount of cash or property anticipated to be contributed by member(s) is \$ -0-

  
X \_\_\_\_\_

**Signature of a member or authorized representative of a member.**  
(In accordance with section 608.408(3), Florida Statutes, the execution of this affidavit constitutes an affirmation under the penalties of perjury that the facts stated herein are true.)

Peter Beer, Managing Member

**Filing Fee: \$250.00 for Application and Affidavit**

SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
98 OCT 22 PM 3:34

# State of Florida



## Department of State

I certify from the records of this office that SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C. on October 22, 1998, is a Michigan limited liability company authorized to transact business in the State of Florida, qualified on October 22, 1998.

The document number of this limited liability company is M98000001234.

I further certify that said limited liability company has paid all fees and penalties due this office through December 31, 1998, and its status is active.

I further certify that said limited liability company has not filed a Certificate of Withdrawal.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Twenty-second day of October, 1998



CR2EO22 (2-95)

*Sandra B. Northam*

Sandra B. Northam  
Secretary of State

# State of Florida



## Department of State

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CR2EO22 (2-95)

*Sandra B. Northam*

Sandra B. Northam  
Secretary of State

21

LAW OFFICES OF  
MARK CAPALDI, P.C.  
10 WEST LONG LOAKE ROAD, SUITE 135  
BLOOMFIELD HILLS, MI 48304  

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(248) 593-8400 \* FAX (248) 593-8188

October 15, 1998

TransAtlantic Capital Company, L.L.C.  
31 East 52<sup>nd</sup> Street, 10<sup>th</sup> Floor  
New York, New York 10019

Re: \$ 2,000,000.00 Mortgage Loan to Sandpiper Mobile Manor Associates, L.L.C.

Ladies and Gentlemen:

We have acted as counsel to Sandpiper Mobile Manor Associates, L.L.C., a Michigan limited liability company ("Borrower"), in connection with that certain \$ 2,000,000.00 mortgage loan (the "Loan") being made this day by TransAtlantic Capital Company ("Lender") to Borrower. In such capacity, we have reviewed the following documents dated as of October 23, 1998 as executed in connection with the Loan:

- (a.) Promissory Note (the "Note") made by Borrower payable to the order of Lender in the principal amount of \$ 2,000,000.00 ;
- (b.) Mortgage and Security Agreement (the "Mortgage") given by Borrower for the benefit of Lender as security for the Note and covering the premises located at Leesburg, Lake County, Florida (the "Premises");
- (c.) Assignment of Leases and Rents (the "Assignment of Leases") made by Borrower in favor of Lender as further security for the Note covering the Premises;
- (d.) Two (2) UCC-1 Financing Statements (the "Financing Statements") between Borrower, as debtor, and Lender, as secured party;
- (e.) Environmental Indemnity Agreement (the "Environmental Indemnity") made by Borrower and Guarantor in favor of Lender;

TransAtlantic Capital Company  
October 15, 1998

- (f.) Assignment of Contracts, Licenses, Permits and Plans (the "Assignment of Contracts") made by Borrower in favor of Lender;
- (g.) Guaranty (the "Guaranty") made by Peter Beer, Benedetto Sorrentino, Thomas Barnett, Ivan Bloch, and Ronald Ossipove (the "Guarantor") for the benefit of the Lender.

The Note, the Mortgage, the Assignment of Leases, the Financing Statements, the Guaranty, the Environmental Indemnity and the Assignment of Contracts are hereinafter collectively referred to as the "Loan Documents."

In rendering our opinion we have also examined such certificates of public officials, corporate and limited liability documents and records and other certificates and instruments as we have deemed necessary for the purposes of the opinion herein expressed. As to various questions of fact material to our opinion, we have relied upon certificates and written statements of members of Borrower, but we have no knowledge that any of such statements are inaccurate or incomplete.

We understand that with respect to title matters, you will be relying on the title insurance commitment issued to you by Commonwealth Land Title Insurance Company bearing Title No. OR984760 dated as of September 3, 1998 and re-dated as of today. We have not made any investigation of and do not express an opinion as to, any matters of title or the descriptions of any property (whether real, personal or mixed) or priority of liens.

We express no opinion with respect to the effect of any law other than the law of the State of Florida and the federal law of the United States.

Based on the foregoing and upon such investigation as we have deemed necessary, and subject to the qualifications and exceptions herein contained, we are of the opinion that;

1. Borrower is a limited liability company duly organized, validly existing, and in good standing. Duly formed and validly existing as a limited liability company under the law of the State of Michigan and is duly qualified to do business and is in good standing as a foreign limited liability company under the law of the State of Florida.

2. Borrower has the membership power and authority and all material governmental licenses, authorizations, consents and approvals to own, lease and operate the Premises and to execute, deliver, and perform Borrower's obligations under the Loan Documents.

3. Borrower is not a foreign national, and there is no restriction under Federal or Michigan law which would prohibit or prevent Borrower from mortgaging, owning, developing, operating and managing the Premises. Borrower has taken all steps and has made all filings to the extent required under Federal and Michigan law to enable it to mortgage, own, develop, operate and manage the Premises.

4. The execution and delivery of the Loan Documents by Borrower and the performance of Borrower's obligations under the Loan Documents have been duly authorized by all requisite action of Borrower and the Loan Documents have been duly executed and delivered by Borrower.

\_\_\_\_\_ The execution and delivery by Guarantors of the Guaranty and the Environmental Indemnity and the performance of Guarantors' obligations under the Guaranty and the Environmental Indemnity have been duly authorized by all requisite action of Guarantors and the Guaranty and the Environmental Indemnity have been duly executed and delivered by Guarantors.

5. The Loan Documents are the legal, valid and binding obligations of Borrower and Guarantor, respectively, enforceable against Borrower and Guarantor, respectively, in accordance with their respective terms, except as such enforceability may be limited by (i.) bankruptcy, insolvency or other similar laws affecting the rights of creditors generally and (ii.) general principles of equity (regardless of whether considered in a proceeding in equity or at law). The aforesaid opinion as to the enforceability of the Loan Documents is also subject to the qualification that certain provisions contained in the Loan Documents may not be enforceable, but, notwithstanding such qualification or the limitations set forth in the foregoing clauses (i.) and (ii.), such unenforceability will not render the Loan Documents invalid as a whole or substantially interfere with realization of the principle benefits and/or security provided thereby.

6. The execution and delivery by Borrower and Guarantor of the Loan Documents do not, and the payment by Borrower of the indebtedness evidenced by the Note will not, (a.) conflict with or violate any provision of the Article of Organization or Operating Agreement of Borrower or (b.) to our actual knowledge, (i.) conflict with or violate or result in a breach of any of the provisions of, or constitute a default under, or result in the creation or imposition of a lien, charge or encumbrance upon any of the properties or assets of Borrower or Guarantor pursuant to, any agreement or instrument to which Borrower or Guarantor is a party or by which any of their respective properties is bound, or (ii.) conflict with or violate any judgment, order, writ, injunction, or decree binding on Borrower or Guarantor, or (c.) conflict with or violate any law, rule, regulation or ordinance applicable to Borrower or Guarantor.

7. We have no actual knowledge of any material pending or threatened lawsuits, claims or criminal proceedings against Borrower, Guarantor or any principle, or member of Borrower or specifically applicable to the Premises.

8. The Loan, as made, will not violate any applicable usury laws of the State of Michigan, or other applicable laws regulating the interest rate, fees and other charges that may be collected with respect to the Loan.

9. To the best of our knowledge, the Premises complies with all applicable zoning, subdivision, land use and development laws, rules and regulations and there is no legal action pending or threatened, or proposed change in zoning, which would affect the use and occupancy of the Premises as a mobile home park development.

10. The Mortgage, the Assignment of Leases and the Financing Statements are each in form satisfactory for recording in Lake County, in the State of Florida and, with respect to the Financing Statements, in form satisfactory for filing in the Office of Secretary of State of the State of Florida, and upon such recordation and filing, as applicable, the Mortgage and the Assignment of Leases and the Financing Statements shall constitute and create perfected security interest in and a perfected lien upon the property or rights described therein, in each case in favor of Lender. No other recordation or filing is required to perfect or preserve such interest or lien.

11. No fees, taxes or other charges, including, without limitation, intangible, documentary, stamp, mortgage, transfer or recording taxes or similar charges, are payable to the State of Michigan or to any jurisdiction therein on account of the execution, delivery or ownership of the Note, the Mortgage or the other Loan Documents, the creation of the indebtedness evidenced or secured thereby, the creation of the liens and security interests thereunder, or the filing, recording or registration of the Mortgage, Assignment of Leases or the Financing Statements, except for nominal filing or recording fees.

12. The Mortgage and Assignment of Leases conform to all requirements of the law of the State of Michigan and the Mortgage and assignments of leases and rents each contains substantially all of the remedial, waiver and other provisions normally contained in mortgages and security agreements and assignments of leases and rents used in connection with transactions of the type and value described in the Loan Documents.

13. In connection with the remedies provided in the Mortgage there is no "one form of action" or similar law in State of Michigan which would limit lender to choosing only one remedy to enforce its rights under the Mortgage and other Loan Documents.

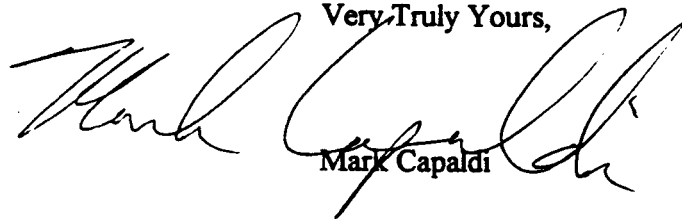


TransAtlantic Capital Company  
October 15, 1998

The foregoing opinions shall not be relied upon by any party other than Lender, their successors, and/or assigns, and their respective counsel.

Please contact me if you have any questions.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Mark Capaldi". The signature is fluid and cursive, with a large initial "M" and "C".

Mark Capaldi

October \_\_, 1998

**VIA FEDERAL EXPRESS**

COMMONWEALTH LAND TITLE  
INSURANCE COMPANY  
655 Third Avenue, 11th Floor  
New York, New York 10017  
Attn: Diane Crawford/Vance Poidomani

Re: File No. NTS-98-10-1064 relating to the loan to  
be made by TransAtlantic Capital Company, L.L.C.  
to Sandpiper Mobile Manor Associates, L.L.C.

Ladies and Gentlemen:

This letter shall constitute escrow instructions to you from TransAtlantic Capital Company, L.L.C. (the "Lender") in connection with the approximately \$ \_\_\_\_\_ loan (the "Loan") to be made by Lender to Sandpiper Mobile Manor Associates, L.L.C. (the "Borrower"), with respect to the property located in the County of Lake, State of Florida, known as the Sandpiper Mobile Manor (the "Property").

A. Delivery of Documents. Delivered to Commonwealth Land Title Insurance Company (referred to herein as "you" or "Escrow Agent") herewith, are the following documents relating to the Loan (collectively, the "Delivered Documents"), all of which are executed originals and in recordable form. Concurrently with the funding of the Loan and the satisfaction of the Closing Conditions (as hereinafter defined) (the "Closing"), you shall take possession of all of the Delivered Documents for the benefit of Lender and deliver them in accordance with the provisions of this letter:

1. Mortgage and Security Agreement executed by Borrower to Lender (the "Security Instrument");
2. Assignment of Leases and Rents executed by Borrower in favor of Lender (the "Assignment of Leases"); and
3. Two (2) UCC-1 Financing Statements showing Borrower, as debtor, and Lender, as secured party (the "Financing Statements")

B. Wire Transfer. On the Settlement Date (as defined herein), you will receive from or on behalf of Lender by wire transfer the amount indicated as the Mortgage Loan Amount in the closing Statement (the "Closing Statement"), a copy of which will be telecopied to you on or before the Settlement Date (the "Loan Funds") which shall be held

in escrow by you until such time as disbursed or returned as provided herein. You will also receive from Borrower by wire transfer the amount if any shown on the Closing Statement (the "Borrower Funds") which shall be held in escrow by you until such time as disbursed or returned as herein provided.

C. Conditions to Closing. The following are Lender's conditions to Closing and releasing the Loan Funds and Borrower Funds held by you (collectively, the "Closing Conditions") on the Settlement Date:

- (i) You have received all of the Delivered Documents.
- (ii) You have received from Lender the Loan Funds and from Borrower the Borrower Funds and are prepared to immediately disburse said funds in accordance with the Disbursement Statement, a copy of which will be attached to the Closing Statement.
- (iii) You are unconditionally and irrevocably committed to issue to Lender an ALTA Loan Policy of Title Insurance (the "Policy"). The Policy:
  - (a) shall be effective as of the date and time of the Settlement Date, regardless of the recording or failure to record the Delivered Documents in the applicable county recorder's office, and shall be redated as of the date of the recording of the Security Instruments;
  - (b) shall show the named insured as "TransAtlantic Capital Company, L.L.C. and its successors and assigns";
  - (c) shall provide coverage in the amount of the Loan indicated in the Closing Statement;
  - (d) shall show title to the fee interest in the Property vested in Borrower;
  - (e) shall contain a legal description identical to the legal description attached to the Security Instrument as Exhibit A;
  - (f) shall insure the Security Instrument to be a valid first lien on the Property pursuant to the commitment for title insurance, File Number NTS-98-10-1064 (the "Commitment") as shown on the copy attached hereto as Exhibit A, and shall incorporate all of the notations and changes included thereon and include all of the endorsements attached thereto as indicated; and

- (g) shall reference the Assignment of Leases and one of the Financing Statements either in Schedule A or as subordinate items in Part 2 of Schedule B.
- (iv) Each page of the Policy and each endorsement attached thereto must reflect the correct Policy Number. Further, each endorsement to the Policy must be signed and dated.
- (v) You shall have notified David Schrodt, Esq. of Sonnenschein Nath & Rosenthal at (312) 876-7571 (or in his/her absence, Steven R. Davidson, Esq. of the same firm at (312) 876-8238) (collectively, the "Lender Notice Parties") that Conditions (i), (ii) and (iii) of this paragraph have been satisfied.

D. Closing. When all of the foregoing Closing Conditions have been fully met:

You shall notify one of the Lender Notice Parties that you have received the Loan Funds and the Borrower Funds; and then

- (i) You shall execute the Receipt and Acknowledgement attached hereto as Exhibit B and send it by facsimile to one of the Lender Notice Parties (Fax 312-876-7934)
- (ii) You shall record in the appropriate records of the County of Lake, State of Florida, the Security Instrument, the Assignment of Leases, and one (1) Financing Statement in that order and you shall cause the filing of the remaining Financing Statement with the Secretary of State of the State of Florida;
- (iii) You shall disburse the Loan Funds and the Borrower Funds in the manner specified in the Disbursement Statement attached to the Closing Statement; and then (but not later than 10 days thereafter)
- (iv) You shall deliver the Policy. The Policy should be sent via overnight courier to:

Steven R. Davidson, Esq.  
Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago, Illinois 60606

Your recordation of any of the documents or disbursement of any funds delivered in accordance with the terms of this letter shall constitute your unqualified, unconditional and irrevocable agreement to issue the Policy as set forth herein. All title insurance premiums,

recording fees, escrow fees, taxes and other closing costs, to the extent that same exceed the amount provided therefor in the Closing Statement, are to be paid by Borrower, and your disbursement of any funds delivered to you hereunder shall evidence your receipt of all such premiums, fees and other costs. Promptly after the Closing, you agree to file any Form 1099 necessitated by the consummation of the loan.

E. Compliance Dates.

- (i) If for any reason, by 1:00 p.m. (local time) on October \_\_, 1998 (the "Settlement Date"), you have not received from Lender the Loan Funds or from Borrower the Borrower Funds, you are to immediately notify one of the Lender Notice Parties for further instructions.
- (ii) If for any reason, on the Settlement Date or by 1:00 p.m. (local time) of the business day following the Settlement Date, you are not prepared to comply with the provisions of Paragraph D above (with the exception of Paragraph D(iv)), you are to immediately notify one of the Lender Notice Parties for further instructions and return the Loan - Funds to Lender.

F. Confirmation. As soon as the Delivered Documents have been recorded in accordance with the terms of this letter, you shall fax written confirmation of such recording to one of the Lender Notice Parties, which written confirmation sets forth the date and time of recording and the recording information of each recorded document.

G. Return of Documents. The original recorded Delivered Documents are to be returned after the recording thereof by overnight courier to:

Steven R. Davidson, Esq.  
Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago, Illinois 60606

H. Interest. By its execution of this letter below, Borrower agrees that, from and after the date upon which the Loan Funds are placed on the wire by Lender (regardless of the actual date of the Closing), the full amount of the Loan thereupon shall be deemed to be disbursed to Borrower and evidenced by the Promissory Note executed by Borrower in evidence of the Loan (the "Note") and shall bear interest at the rate provided in the Note; provided, however, that Borrower's obligations under the Note shall arise only when such funds are disbursed to or for the benefit of Borrower, and should the Loan fail to close for any reason, interest shall remain due and payable by Borrower as provided in the Note only through the date on which the Loan Funds are returned to Lender.

I. Escrowed Loan Documents. On or prior to the date hereof, Borrower has delivered to Lender or its agent (which may include Lender's counsel or a custodian acting on its behalf) fully executed and where appropriate, acknowledged original counterparts of each of the documents listed on Exhibit C attached hereto, including, without limitation, duplicate original counterparts of each of the Recorded Documents (collectively, the "Loan Documents"). The Loan Documents shall be held by Lender in escrow pending the Closing (Borrower acknowledges that while Lender is holding the Loan Documents in escrow, it may transfer possession thereof to its agent on its behalf). The Loan Documents shall be deemed to be delivered from Borrower to Lender upon the Closing. If the Closing shall not occur for any reason, Lender will return (or will cause to be returned) the Loan Documents to Borrower.

J. Notices. A. Except as otherwise expressly provided herein, any notice, consent, approval, request, demand, document or other communication which any party is required or may desire to give, deliver or make to any other party pursuant to this letter shall be in writing, and may be personally delivered or given or delivered by United States registered or certified mail, return receipt requested, by overnight delivery service (e.g., Federal Express), or by telecopied transmission addressed as follows:

If to Lender:

TransAtlantic Capital Company, L.L.C.  
31 West 52nd Street, 10th Floor  
New York, New York 10104  
Telecopier: (212) 469-8976  
Attn.: Paul Fried  
Telephone: (212) 469-7336

Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago, Illinois 60606  
Telecopier: (312) 876-7934  
Attn.: Steven R. Davidson, Esq.  
Telephone: (312) 876-8238

If to Borrower:

Sandpiper Mobile Manor Associates  
18700 West Ten Mile Road  
Southfield, Michigan 48075  
Telecopier:  
Attn: Peter Beer  
Telephone:

Escrow Agent:

Commonwealth Land Title Insurance Company  
655 Third Avenue, 11th Floor  
New York, New York 10017  
Telecopier: 212-557-2148  
Attn.: Diane Crawford/Laral Poidomani  
Telephone: 800-258-5117, ext. 226

A. Any party may designate a different address for itself by notice similarly given. Any notice, demand or document shall be deemed to have been given upon actual delivery or attempted delivery, provided such attempted delivery is made on a business day. Notices hereunder may be given by an attorney for a party hereto.

B. A duplicate copy or communication of any notice or other communication delivered or given to Lender pursuant to this letter shall be delivered in the same manner to a Lender Notice Party at the address, telecopy and telephone numbers set forth above.

K. Amendment. The undersigned, (or, in his/her absence, Steven R. Davidson, Esq.), on behalf of Lender, reserves the right to modify the foregoing instructions at any time prior to the recording of the Delivered Documents.

L. Counterpart Execution. This letter may be signed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument. A signed fax of this letter shall constitute an original.

M. Sale of Loan. It is anticipated that the Loan may be sold after the closing thereof. Delivered to you herewith is a copy of a form of Assignment of Mortgage/Deed of Trust/Deed to Secure Debt and Security Agreement and Assignment of Leases and Rents and two (2) UCC financing statement assignment forms (the "Assignment Documents"). Upon your receipt of the original executed Assignment Documents fully completed, you shall, at Borrower's sole cost and expense, record the same and issue an endorsement to the Policy (the "Endorsement") insuring the assignment of Lender's interest under the Security Instrument to the entity purchasing the Loan.

**[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]**

Please confirm your agreement to comply with the foregoing instructions by signing the attached copy of this letter in the space provided on the bottom of this page and returning it to me.

Very truly yours,

TRANSATLANTIC CAPITAL COMPANY,  
L.L.C.

By: SONNENSCHN NATH & ROSENTHAL  
Counsel for the Lender

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

Accepted and agreed to:

ESCROW AGENT:

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:  
Date:

BORROWER:

SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C.

By: \_\_\_\_\_  
Name: Peter Beer  
Title: Managing Member  
Date:



EXHIBIT A

MARKED TITLE COMMITMENT OR PRO FORMA POLICY

EXHIBIT B

RECEIPT AND ACKNOWLEDGMENT

VIA FACSIMILE - (312) 876-7934  
TransAtlantic Capital Company, L.L.C.  
c/o Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago, Illinois 60606  
Attention: David Schrodt, Esq.

Ladies and Gentlemen:

The undersigned hereby acknowledges receipt of the Delivered Documents, Loan Funds and Borrower Funds and agrees to disburse the Loan Funds and Borrower Funds in accordance with the Escrow Agreement dated October \_\_, 1998 ("Escrow Agreement"). The undersigned hereby confirms that: (A) all requirements necessary for the issuance of the Policy including, without limitation, either the payment of, or satisfactory provision for the payment of, title insurance premiums, recording fees, taxes and existing encumbrances against the Property, have been or will be complied with; (B) the undersigned will issue the Policy in accordance with the provisions of the Escrow Agreement and has or will otherwise comply with the terms of the Escrow Agreement; (C) the undersigned will insure the so-called "gap" during the period from the date of the Commitment and Settlement Date through the date and time of recording of the Security Instrument; (D) the undersigned will record or file, as appropriate, the originals of the Delivered Documents; and (E) the undersigned, upon receipt thereof, will record or file, as appropriate, at Borrower's sole cost and expense, the Assignment Documents and will issue the Endorsement(s) to the Policy promptly thereafter.

Dated: October \_\_, 1998

COMMONWEALTH LAND TITLE  
INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT C

LIST OF LOAN DOCUMENTS

- A. Promissory Note in principal amount of \_\_\_\_\_ by Borrower in favor of TransAtlantic Capital Company, L.L.C.
- B. Mortgage and Security Agreement by Borrower in favor of TransAtlantic Capital Company, L.L.C.
- C. Assignment of Leases and Rents by Borrower in favor of TransAtlantic Capital Company, L.L.C.
- D. Guaranty in favor of TransAtlantic Capital Company, L.L.C.
- E. Environmental Indemnity Agreement in favor of TransAtlantic Capital Company.
- F. Certification Regarding Property Documents and Financial Information by Borrower in favor of TransAtlantic Capital Company, L.L.C.
- G. Borrower's Closing Certificate in favor of TransAtlantic Capital Company, L.L.C.
- H. 2 UCC-1 Financing Statements by Borrower, as debtor, in favor of TransAtlantic Capital Company, L.L.C., as secured party.

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MIRO WEINER & KRAMER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SUITE 100

500 NORTH WOODWARD AVENUE

P. O. BOX 908

BLOOMFIELD HILLS, MICHIGAN 48303-0908

TELEPHONE (248) 646-2400

FACSIMILE (248) 646-2681

FACSIMILE (248) 646-7887

32ND FLOOR

712 FIFTH AVENUE

NEW YORK, NEW YORK 10019

TELEPHONE (212) 247-4720

FACSIMILE (212) 247-1216

Linda E. Bloch

October 26, 1998

TransAtlantic Capital Company, L.L.C.  
31 East 52<sup>nd</sup> Street, 10<sup>th</sup> Floor  
New York, New York 10019

Re: \$2,000,000.00 Mortgage Loan to Sandpiper Mobile Manor Associates, L.L.C.

Ladies and Gentlemen:

We have acted as special Florida counsel to Sandpiper Mobile Manor Associates, L.L.C., a Michigan limited liability company ("Borrower"), in connection with that certain \$2,000,000.00 mortgage loan (the "Loan") being made this day by TransAtlantic Capital Company ("Lender") to Borrower. In such capacity, we have reviewed the following documents dated as of October 26, 1998 as executed in connection with the Loan:

- (a) Promissory Note (the "Note") made by Borrower payable to the order of Lender in the principal amount of \$2,000,000.00;
- (b) Mortgage and Security Agreement (the "Mortgage") given by Borrower for the benefit of Lender as security for the Note and covering the premises located at Leesburg, Lake County, Florida (the "Premises");
- (c) Assignment of Leases and Rents (the "Assignment of Leases") made by Borrower in favor of Lender as further security for the Note covering the Premises;
- (d) Two (2) UCC-1 Financing Statements (the "Financing Statements") between Borrower, as debtor, and Lender, as secured party;
- (e) Environmental Indemnity Agreement (the "Environmental Indemnity") made by Borrower and Guarantor in favor of Lender;
- (f) Assignment of Contracts, Licenses, Permits and Plans (the "Assignment of Contracts") made by Borrower in favor of Lender;

- (g) Guaranty (the "Guaranty") made by Peter Beer, Benedetto Sorrentino and Thomas Barnett (collectively, the "Guarantor") for the benefit of the Lender.

The Note, the Mortgage, the Assignment of Leases, the Financing Statements, the Guaranty, the Environmental Indemnity and the Assignment of Contracts are hereinafter collectively referred to as the "Loan Documents".

In rendering our opinion we have also examined such certificates of public officials, corporate and limited liability documents and records and other certificates and instruments as we have deemed necessary for the purposes of the opinion expressed herein. As to various questions of fact material to our opinion, we have relied upon certificates and written statements of members of Borrower, but we have no knowledge that any of such statements are inaccurate or incomplete.

In rendering this opinion we have also, with your approval, relied upon the opinion of Mark Capaldi, P.C., counsel to Borrower, as to the matters set forth in that opinion.

We understand that with respect to title matters, you will be relying on the title insurance commitment issued to you by Commonwealth Land Title Insurance Company ("Title Company") bearing Title No. OR984760 dated as of September 3, 1998 and re-dated as of today. We have not made any investigation of and do not express any opinion as to, any matters of title or the descriptions of any property (whether real, personal or mixed) or priority of liens.

We express no opinion with respect to the effect of any law other than the law of the State of Florida and the federal law of the United States ("Federal law")

Based upon such examination and the pertinent laws of the State of Florida and Federal law, we are of the opinion that:

1. Borrower is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Michigan and is duly qualified and authorized to transact business and is in good standing as a foreign limited liability company under the laws of the State of Florida.
2. Borrower has the membership power and authority and all material governmental licenses, authorizations, consents and approvals to own, lease and operate the premises and to execute, deliver and perform Borrower's obligations under the Loan documents.
3. Borrower is not a foreign national, and there is no restriction under Federal law or the laws of the State of Florida which would prohibit or prevent Borrower from mortgaging, owning, developing, operating and managing the Premises. Borrower has taken all steps and has made all filings to the extent required

under Federal law and the laws of the State of Florida to enable it to mortgage, own, develop, operate and manage the Premises.

4. The execution and delivery of the Loan Documents by Borrower and the performance of Borrower's obligations under the Loan Documents have been duly authorized by all requisite action of Borrower and the Loan Documents have been duly executed and delivered by Borrower. The execution and delivery by Guarantor of the Guaranty and the Environmental Indemnity and the performance of Guarantor's obligations under the Guaranty and the Environmental Indemnity have been duly authorized by all requisite action of Guarantor and the Guaranty and the Environmental Indemnity have been duly executed and delivered by Guarantor.
5. The Loan Documents are the legal, valid and binding obligations of Borrower and Guarantor, respectively, enforceable against Borrower and Guarantor, respectively, in accordance with their respective terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting the rights of creditors generally and (ii) limitations imposed by general principles of equity upon the specific enforceability of any of the remedies covenants or provisions of the Loan Documents and upon the availability of injunctive relief or other equitable remedies and the application of principles of equity (regardless of whether considered in a proceeding in equity or at law) in regard to certain covenants and provisions of the Loan Documents where (a) the breach of such covenants and provisions imposes restrictions or burdens upon the Borrower, including the acceleration of indebtedness due under debt instruments, and it cannot be demonstrated that the enforcement of such restrictions or burdens is reasonably necessary for the protection of the creditor, or (b) the creditor's enforcement of such covenants or provisions under the circumstances, or in such manner, would violate the creditor's implied covenant of good faith and fair dealing, or would be commercially unreasonable. In addition, certain rights and remedies contained in the Loan Documents may be rendered ineffective or limited, by applicable laws or judicial decisions governing such provisions, but such limitations do not in our opinion render the Loan Documents invalid as a whole or substantially interfere with the practical realization of the benefits and/or security intended to be provided by the Loan Documents except for the economic consequences if any procedural delay that might result therefrom.
6. The execution and delivery by Borrower and Guarantor of the Loan Documents do not, and the payment by Borrower of the indebtedness evidenced by the Note will not (a) conflict with or violate any provision of the Articles of Organization or Operating Agreement of the Borrower or (b) to our actual knowledge: (i) conflict with or violate or result in a breach of any of the provisions of, or constitute a default under, or result in the creation or imposition of a lien, charge or encumbrance upon any of the properties or assets of Borrower or

Guarantor pursuant to any agreement or instrument to which Borrower or Guarantor is a party or by which any of their respective properties is bound, or (ii) conflict with or violate any judgment, order, writ, injunction or decree binding on Borrower or Guarantor, or (c) conflict with or violate any law, rule, regulation or ordinance applicable to Borrower or Guarantor.

7. We have no actual knowledge of any material pending or threatened lawsuits, claims or criminal proceedings against Borrower, Guarantor or any principal or member of Borrower or specifically applicable to the Premises.
8. The Loan, as made, will not violate any applicable usury laws of the State of Florida, or other applicable laws regulating the interest rate, fees and other charges that may be collected with respect to the Loan.
9. To the best of our knowledge, the Premises complies with all applicable zoning, subdivision land use and development laws, rules and regulations and there is no legal action pending or threatened, or proposed change in zoning which would affect the use and occupancy of the Premises as a mobile home park development.
10. So long as they are properly executed and notarized, and all blank spaces filled in and all referenced legal descriptions and exhibits attached thereto, the Mortgage, the Assignment of Leases and the Financing Statements are each in form satisfactory for recording in Lake County in the State of Florida and, with respect to the Financing Statements, in form satisfactory for filing in the Office of the Secretary of State of the State of Florida, and upon such recordation and filing, as applicable, the Mortgage and Assignment of Leases and the Financing Statements shall constitute and create perfected security interests in and a perfected lien upon the property or rights described therein, in each case in favor of Lender. No other recordation or filing is required to perfect or preserve such interest or lien.
11. No fees, taxes or other charges, including, without limitation intangible, documentary, stamp, mortgage, transfer or recording taxes or similar charges are payable to the State of Florida or to any jurisdiction therein on account of the execution, delivery or ownership of the Note, the Mortgage or the other Loan Documents, the creation of the indebtedness evidenced or secured thereby, except for filing fees, recording fees, documentary stamps and intangible taxes as set forth on the attached statement of file charges prepared by the Title Company, which charges, fees and taxes are to be paid at closing.
12. The Mortgage and Assignment of Leases conform to all requirements of the law of the State of Florida and the Mortgage and Assignment of Leases each contain substantially all of the remedial, waiver and other provisions normally contained in mortgages and security agreements and assignments of leases and rents used



in connection with transactions of the type and value described in the Loan Documents.

13. In connection with the remedies provided in the Mortgage there is no "one form of action" or similar law in the State of Florida which would limit Lender in choosing only one remedy to enforce its rights under the Mortgage and the other Loan Documents.

The foregoing opinions shall not be relied upon by any party other than Lender, its successors, and/or assigns, and their respective counsel.

Very truly yours,

Miro Weiner & Kramer, a  
Professional corporation

By:   
Linda E. Bloch

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ALLONGE

TO PROMISSORY NOTE DATED OCTOBER 26, 1998 IN THE PRINCIPAL AMOUNT OF \$2,000,000.00 MADE BY SANDPIPER MOBILE MANOR ASSOCIATES, L.L.C. TO TRANSATLANTIC CAPITAL COMPANY, L.L.C.

PAY TO THE ORDER OF \_\_\_\_\_,  
WITHOUT RECOURSE, BUT SUBJECT TO THE TERMS OF THAT CERTAIN MORTGAGE LOAN PURCHASE AGREEMENT, DATED AS OF NOVEMBER 26, 1996, BY AND BETWEEN TRANSATLANTIC CAPITAL COMPANY, L.L.C., AS THE SELLER, AND GERMAN AMERICAN CAPITAL CORPORATION, AS THE PURCHASER.

TRANSATLANTIC CAPITAL COMPANY,  
L.L.C.

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

Name: Louis F. Miranda

Title: Managing Director

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PREPARED BY:  
David I. Schrodt, Esq.  
Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6404

UPON RECORDATION RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTN: \_\_\_\_\_

ASSIGNMENT OF MORTGAGE AND SECURITY AGREEMENT AND ASSIGNMENT  
OF ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF MORTGAGE AND SECURITY AGREEMENT AND  
ASSIGNMENT OF ASSIGNMENT OF LEASES AND RENTS (the "Assignment") is executed  
as of \_\_\_\_\_, 1998, by TransAtlantic Capital Company, L.L.C., a Delaware limited  
liability company (the "Assignor"), to \_\_\_\_\_,  
a \_\_\_\_\_ (the "Assignee"), whose post office address is  
\_\_\_\_\_, County of \_\_\_\_\_.

BACKGROUND

WHEREAS, on October 26, 1998, Assignor made a loan to Sandpiper Mobile  
Manor Associates, L.L.C. (the "Borrower"), in the original amount of Two Million and no/100  
Dollars (\$2,000,000.00) (the "Loan"), which Loan is evidenced by that certain Promissory Note,  
dated October 26, 1998, executed by Borrower and payable to the order of Assignor in the  
principal amount as aforesaid (the "Note");

WHEREAS, the obligations of the Borrower under the Loan and the Note are  
secured by, among other things, that certain Mortgage and Security Agreement (the  
"Mortgage"), dated October 26, 1998, executed by Borrower and recorded on August \_\_\_\_, 1998  
in Book \_\_\_\_, at Page \_\_\_\_, of the Land Records of Lake County, Florida (the "Official  
Records"), and that certain Assignment of Leases and Rents (the "Assignment"), dated  
October 26, 1998, executed by Borrower and recorded on October \_\_\_\_, 1998 as Document  
Number \_\_\_\_\_, in Book \_\_\_\_, at Pages \_\_\_\_\_, of the Official Records;

WHEREAS, on even date herewith, Assignor endorsed the Note to Assignee and;

WHEREAS, Assignor desires to assign its interest in the Mortgage to Assignee.

ASSIGNMENT

For \$10.00 and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns and transfers to Assignee, all of Assignor's right, title and interest in, to and under the Mortgage and the Assignment, to have and to hold unto Assignee, its successors and assigns, forever.


[NO FURTHER TEXT ON THIS PAGE]

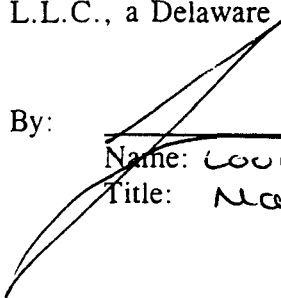
THIS ASSIGNMENT has been executed by Assignor as of the date specified at the beginning of this Agreement.

Witness:

ASSIGNOR:

TRANSATLANTIC CAPITAL COMPANY,  
L.L.C., a Delaware limited liability company

  
Name: Steven H. Yeh

By:   
Name: Louis P. Miranda  
Title: Managing Director

STATE OF NEW YORK )  
 )  
COUNTY OF NEW YORK )

This instrument was acknowledged before me on October 30, 1998, by Louis P. Miranda, as Managing Director of TransAtlantic Capital Company, L.L.C., a Delaware limited liability company, on behalf of said company.

Karen D. Bernsohn  
\_\_\_\_\_  
Notary Public, State of New York

This Instrument Prepared By:

David I. Schrodt, Esq.  
Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6404

KAREN D. BERNSOHN  
Notary Public, State of New York  
No. 01BE600838  
Qualified in New York County  
Commission Expires June 15, ~~2000~~



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## ASSIGNMENT AND CONVEYANCE AGREEMENT

On this \_\_\_ day of October, 1998 (the "Closing Date"), TransAtlantic Capital Company, L.L.C. (the "Seller") as the Seller under that certain Mortgage Loan Purchase Agreement, dated as of November 26, 1996 (the "Agreement") does hereby sell, transfer, assign, set over and convey to German American Capital Corporation (the "Purchaser") as the Purchaser under the Agreement, without recourse, but subject to the terms of the Agreement, all rights, title and interest of the Seller in and to the Mortgage Loans listed on the Mortgage Loan Schedule attached hereto, together with the Mortgage Files and all rights and obligations arising under the documents contained therein. Pursuant to Sections 3.04(b) of the Agreement the Seller has delivered, or contemporaneously herewith, is delivering, to the Custodian the documents for each Mortgage Loan to be purchased, as set forth in the Custodial Agreement. The contents of each Servicing File shall be held by the Seller in trust for the Purchaser as the owner thereof. The ownership of each Mortgage Note, Mortgage, and the contents of the Mortgage File and Servicing File is vested in the Purchaser and the ownership of all records and documents with respect to the related Mortgage Loan prepared by or which come into the possession of the Seller shall immediately vest in the Purchaser and shall be promptly delivered by the Seller to the Purchaser or the Custodian, as applicable.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Agreement.

TRANSATLANTIC CAPITAL COMPANY, L.L.C.  
(Seller)

By:



---

Name: Louis P. Miranda  
Title: Managing Director

## Mortgage Loan Schedule

1. \$2,000,000.00 loan from TransAtlantic Capital Company, L.L.C. to Sandpiper Mobile Manor Associates, L.L.C. for property known as Sandpiper Mobile Manor in Lake County, Florida.

---

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This Statement of Change is presented to a filing officer pursuant to the Uniform Commercial Code:

1. Debtor (Last Name First if an Individual) Sandpiper Mobile Manor Associates, L.L.C.		1a. Date of Birth or FEI# 38-3435661
1b. Mailing Address 18700 West Ten Mile Road	1c. City, State Southfield, Michigan	1d. Zip Code 48075
2. Additional Debtor or Trade Name (Last Name First if an Individual)		2a. Date of Birth or FEI#
2b. Mailing Address	2c. City, State	2d. Zip Code
3. Secured Party (Last Name First if an Individual) TransAtlantic Capital Company, L.L.C.		
3a. Mailing Address 31 East 52nd Street, 10th Floor	3b. City, State New York, New York	3c. Zip Code 10019
4. Additional Secured Party (Last Name First if an Individual)		
4a. Mailing Address	4b. City, State	4c. Zip Code

5. This Statement refers to original Financing Statement bearing file number: \_\_\_\_\_ filed on \_\_\_\_\_
6. A.  Continuation - The original Financing Statement between the Debtor and Secured Party bearing the file number shown above is continued.  
 B.  Release - The Secured Party releases the collateral described in Block 7 below from the Financing Statement bearing the file number shown above. RELEASE DOES NOT TERMINATE LIEN AGAINST DEBTOR.  
 C.  Full Assignment - All of the Secured Party's rights under the Financing Statement have been assigned to the assignee whose name and address is shown in Block 7 below.  
 D.  Partial Assignment - Some of Secured Party's rights under the Financing Statement have been assigned to the assignee whose name and address is shown in Block 7. A description of the collateral subject to the assignment is also shown in Block 7.  
 E.  Amendment - The Financing Statement bearing the file number shown above is amended as set forth in Block 7. (See instructions for signature requirements.)  
 F.  Termination - The Secured Party no longer claims an interest under the Financing Statement bearing the file number shown above.  
 G.  Other - \_\_\_\_\_

7. Description of collateral released or assigned, Assignee name and address, or amendment. Use additional sheet(s) if necessary.

This space for use of Filing Officer

8. Signature(s) of Debtor(s): (only if amendment - see instructions)

---

9. Signature(s) of Secured party(ies):  
 TransAtlantic Capital Company  
 By: \_\_\_\_\_  
 Its: Managing Director

10. Number of Additional Sheets Presented \_\_\_\_\_

11. Return Copy to:

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Address \_\_\_\_\_  
 City, State, Zip \_\_\_\_\_

27

This Statement of Change is presented to a filing officer pursuant to the Uniform Commercial Code:

1. Debtor (Last Name First if an Individual)		1a. Date of Birth or FEI#	
Sandpiper Mobile Manor Associates, L.L.C.		38-3435661	
b. Mailing Address		1c. City, State	1d. Zip Code
18700 West Ten Mile Road		Southfield, Michigan	48075
2. Additional Debtor or Trade Name (Last Name First if an Individual)		2a. Date of Birth or FEI#	
2b. Mailing Address		2c. City, State	2d. Zip Code
3. Secured Party (Last Name First if an Individual)			
TransAtlantic Capital Company, L.L.C.			
3a. Mailing Address		3b. City, State	3c. Zip Code
31 East 52nd Street, 10th Floor		New York, New York	10019
4. Additional Secured Party (Last Name First if an Individual)			
4a. Mailing Address		4b. City, State	4c. Zip Code

5. This Statement refers to original Financing Statement bearing file number: \_\_\_\_\_ filed on \_\_\_\_\_
6. A.  Continuation - The original Financing Statement between the Debtor and Secured Party bearing the file number shown above is continued.  
 B.  Release - The Secured Party releases the collateral described in Block 7 below from the Financing Statement bearing the file number shown above. RELEASE DOES NOT TERMINATE LIEN AGAINST DEBTOR.  
 C.  Full Assignment - All of the Secured Party's rights under the Financing Statement have been assigned to the assignee whose name and address is shown in Block 7 below.  
 D.  Partial Assignment - Some of Secured Party's rights under the Financing Statement have been assigned to the assignee whose name and address is shown in Block 7. A description of the collateral subject to the assignment is also shown in Block 7.  
 E.  Amendment - The Financing Statement bearing the file number shown above is amended as set forth in Block 7. (See instructions for signature requirements.)  
 F.  Termination - The Secured Party no longer claims an interest under the Financing Statement bearing the file number shown above.  
 G.  Other - \_\_\_\_\_

7. Description of collateral released or assigned, Assignee name and address, or amendment. Use additional sheet(s) if necessary.

This space for use of Filing Officer

8. Signature(s) of Debtor(s): (only if amendment - see instructions)

9. Signature(s) of Secured party(ies):  
 TransAtlantic Capital Company  
 By: \_\_\_\_\_  
 Its: *Managing Director*

10. Number of Additional Sheets Presented \_\_\_\_\_

11. Return Copy to:

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Address \_\_\_\_\_  
 City, State, Zip \_\_\_\_\_