

Prepared by & Return to:  
TOWN OF LAKE PARK, FL  
Community Redevelopment Agency  
Attn: Executive Director  
535 Park Avenue  
Lake Park, FL 33403

## MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT ("Mortgage") executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Nadina, LLC (the "GRANTEE") having an address at 904 Park Ave, Lake Park, FL 33404 ("Mortgagor"), in favor of the LAKE PARK COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic, duly organized under the laws of the State of Florida, with an address of 535 Park Avenue, Lake Park, FL 33403, ("Mortgagee").

That for good and valuable consideration and to secure the payment of an indebtedness in the principal amount of FIFTY THOUSAND and 00/100 Dollars (\$50,000.00), to be paid in accordance with a promissory note of even date herewith (hereinafter referred to as the "Note"), together with any and all sums due or which may become due from the Mortgagor to Mortgagee in accordance with the Note, this Mortgage, or otherwise, Mortgagor does grant, bargain, sell, alien, remise, convey, mortgage and confirm unto Mortgagee, its successors and assigns, in fee simple, and grant a security interest in all the certain real property, of which Mortgagor is now seized and possessed, and in actual possession, situate in Palm Beach County, State of Florida, which is legally described in Exhibit "A" attached hereto and made a part hereof ("Land"); together with all improvements, buildings, fixtures, structures now or hereafter existing thereon ("Improvements"); all appurtenances thereto including all easements, rights of way, and all tenements, hereditaments and appurtenances whatsoever in any way belonging, relating or appertaining to the Land (whether now owned or hereafter acquired by Mortgagor); all rents, issues, incomes and profits relating to the possession, use or occupancy of all or any portion of the Land; all contract rights of Mortgagor in and to any and all contracts now existing or hereafter entered into or arising in any manner related to the use or operation of the Land into cash or other liquidated claims, or that are otherwise payable for injury or loss to, or the taking conversion, destruction of any or all of such property, including without limitation all insurance and condemnation proceeds (collectively herein referred to as the "Property").

To the extent any of the property described encumbered by this Mortgage from time to time constitutes personal property subject to the provisions of the Florida Uniform Commercial Code (the "Code"), this Mortgage constitutes a "Security Agreement" for all purposes under the Code. Without limitation, Mortgagee, at its election, upon Mortgagor's default under this Mortgage continuing beyond any applicable curative period, will have all rights, powers, privileges, and remedies from time to time available to a secured party under the provisions of the Code with respect to such property. Notwithstanding any provision of this Mortgage to the

contrary, Mortgagor and Mortgagee agree that, unless and until Mortgagee affirmatively elects otherwise, all property in any manner used, useful, or intended to be used for the improvement of, or production of income from, the Land is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such items are physically attached to the Property; (ii) serial numbers are used for the better identification of certain equipment; or (iii) any such item is referred to or reflected in any financing statement filed or recorded at any time.

TO HAVE AND TO HOLD the same, together with the tenements, hereditaments and appurtenances thereto belonging, and the rents, issues and profits thereof, unto the Mortgagee, its successors and assigns, in fee simple.

The Mortgagor for itself, its successors and assigns, does covenant with said Mortgagee, its successors and assigns, that the Mortgagor is indefeasibly seized of the Property in fee simple; that the Mortgagor has full power and lawful right to convey the Property in fee simple as aforesaid; that the Mortgagor, its successors and assigns, will make such further assurances to perfect the fee simple title to the Property in the Mortgagee, its successors and assigns, as may reasonably be required; and that the Mortgagor does hereby fully warrant the title to the Property, and will defend the same against the lawful claims of all persons whomsoever, and that the Property is free and clear all encumbrances.

PROVIDED ALWAYS, that if the Mortgagor, its successors and assigns, shall pay to the Mortgagee, its successors or assigns, any and all indebtedness due by Mortgagor to Mortgagee, including, but not limited to, the indebtedness evidenced by the Note and any and all renewals of the same and shall perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of this Mortgage, the Note and that certain Lake Park Community Redevelopment Agency Facade and Exterior Improvement Program Grant Agreement dated \_\_\_\_\_, 20\_\_\_\_, between Mortgagor and Mortgagee, the Guaranty and the Restrictive Covenant (the "Grant Documents"), then this Mortgage and the estate hereby created shall cease and be null and void.

To protect the security of this Mortgage, the Mortgagor further agrees with Mortgagee as follows:

1. Payment of Secured Obligations. Mortgagor shall pay when due the principal of, and the interest and other charges on, the indebtedness evidenced by the Note, and shall otherwise comply with all the terms of the Note, this Mortgage and the Grant Documents, including, but not limited to, the restrictions on sale of the property as provided in said documents.
2. Taxes and Other Impositions. Mortgagor will pay or cause to be paid and discharged, on or before the last day on which they may be paid without penalty or interest, all taxes, charges for water, sewer and all other utilities on the Property and any assessments and payments, extraordinary or ordinary, which shall become due and payable by virtue of any present or future law, ordinance, regulation or covenant applicable to the Property (all of the foregoing shall be collectively referred to as the

“Impositions”). In default of payment of any Imposition, Mortgagee may, but shall not be required to, pay the same and the amount so paid by Mortgagee shall, at the Mortgagee’s option, become immediately due and payable with interest at the maximum rate permitted under Florida law and shall be deemed part of the principal indebtedness secured by this Mortgage. Mortgagor shall, upon written request, provide to Mortgagee the receipts or other reasonably satisfactory proof of the payment of any Impositions which may affect the Property.

3. Maintenance/Repairs/Alterations. Mortgagor will keep the Improvements, if any, in good condition and repair and in compliance with all applicable codes, ordinances and regulations. Mortgagor shall commit or permit no waste upon the Property and will do or permit no act by which the Property shall become less valuable. Mortgagor will not remove, demolish or structurally alter any of the Improvements (except such alterations as are contemplated by the Grant Documents and such alterations as may be required by laws, ordinances or regulations) without the prior written permission of the Mortgagee. Mortgagor will promptly restore any Improvement which may be damaged or destroyed thereon and will pay when due all claims for labor performed and materials furnished therefor. Mortgagor will use and operate the Property in compliance with all applicable laws, ordinances, regulations, covenants, conditions and restrictions. Mortgagee and its representatives shall have access to the Property at all reasonable times to determine whether Mortgagor is complying with its obligations under this Mortgage.

4. Payments of Fees and Costs. Mortgagor agrees to pay all costs, charges and expenses, including lawyer’s fees reasonably incurred or paid at any time by the Mortgagee, its successors or assigns, because of the failure on the part of the Mortgagor, its successors or assigns to perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note, this Mortgage or the Grant Documents.

5. Compliance with Documents. Mortgagor agrees to perform, comply with, and abide by each and every stipulation, agreement, condition and covenant contained in the Note, this Mortgage and the Grant Documents.

6. Default. If any of said sums of money herein referred and evidenced by the Note are not promptly and fully paid within ten (10) days of the due date thereof, without further notice or demand, or (i) each and every of the non-monetary stipulations, agreements, conditions and covenants of the Note, this Mortgage and the Grant Documents are not fully performed, complied with and abided by; (ii) the jurisdiction of the United States District or Bankruptcy Court shall be involved by or against the Mortgagor, under any of the provisions of the Federal Bankruptcy Act, or (iii) any warranty or representation made by Mortgagor under this Mortgage, the Note, the Grant Documents or any other written document to Mortgagee shall be untrue or materially misleading; (iv) Mortgagor shall be in default under any other Note or Mortgage that is inferior or superior to this Mortgage or the Note secured hereby, or (v) Mortgagor sell, ceases to own or occupy the Property during the “Restrictive

Period” provided in the Restrictive Covenant associated herewith, or, in the absence of a Restrictive Covenant, two years from the date of completion of improvements then the entire balance of the Promissory Note shall be due and payable immediately upon demand, or thereafter in the sole discretion of the Mortgagee, its successors or assigns, as fully and completely as if the said sum were originally stipulated to be paid on the date provided in such demand

7. Remedies. In the event one or more defaults shall occur, the remedies available to the Mortgagee shall include, but not necessarily be limited to, any one or more of the following:

- a. Mortgagee may declare the entire unpaid balance of the indebtedness due and payable.
- b. Mortgagee may foreclose this Mortgage for the entire unpaid balance of the indebtedness or Mortgagee may foreclose only as to the sum past due without injury to this Mortgage or the impairment of the remainder of the lien thereof. At such foreclosure sale, the Property shall be sold subject to all remaining items of indebtedness and Mortgagee may again foreclose, in the same manner, as often as there may be any sum past due. It is intended hereby to give to the Mortgagee the widest possible discretion permitted by law with respect to all aspects of any such sale or sales. In case of a foreclosure sale of all or part of the Property, Mortgagee shall be entitled to seek a deficiency judgment against the Mortgagor to enforce payment of any remaining unpaid debt, with interest, and to recover judgment against Mortgagor therefor.
- c. Mortgagee may exercise any and all other remedies provided in the Note or the Grant Documents, which remedies shall be cumulative and may be pursued concurrently or successively.

No delay by Mortgagee in exercising any such remedy shall operate as a waiver thereof or preclude the exercise thereof during the continuance of that or any subsequent default. Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage or any laws now or hereafter in force, notwithstanding some or all of the indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, pledge, lien, assignment or otherwise.

8. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to or offset by Mortgagee in reduction of the Note secured by this Mortgage; provided, however, that such awards will be first paid to Mortgagor to the extent repair and restoration of the Property is economically feasible and the security of this Mortgage is not, in Mortgagee’s reasonable judgment, thereby impaired. In the event

of a total taking of the Property, the proceeds shall be applied in reduction of the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. In the event of a partial taking of the Property, unless repair and restoration of the Property by Mortgagor is economically feasible and the security of this Mortgage is not, in Mortgagee's reasonable judgment, thereby impaired, or Mortgagor and Mortgagee otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the Note secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Mortgagor.

9. Notices. Except for any notice required under applicable law to be given in another manner, any notice to Mortgagor and Mortgagee provided for in this Mortgage shall be deemed given three (3) business days after mailing such notice by certified mail addressed to the party at the address stated herein or at such other address as the parties may designate by notice as provided herein, return receipt requested, or upon receipt if hand-delivered or sent by overnight commercial courier (such as Federal Express) to the parties at their addresses stated herein. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated herein. Any party may change its address for notices in the manner provided for herein for giving notice.

10. Restriction on Transfer. This Mortgage shall not be assigned or otherwise transferred by Mortgagor without the express written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion. Any such assignment documentation shall be of no force or effect unless and until consented to in writing by Mortgagee. In the event Mortgagor shall suffer or permit any prohibited assignment or transfer to take place, then Mortgagee may, at its option, declare the entire amount due and payable at once.

11. Hazardous Waste. No hazardous materials shall be placed upon or disposed of on the Property by Mortgagor. Mortgagor hereby indemnifies, defends, and holds Mortgagee free and harmless of, from and against any and all claims, costs, expenses, liabilities, losses, liens, encumbrances, fees, damages, judgments, penalties, causes of action and other charges of whatsoever kind or nature (including, without limitation, attorney's fees and disbursements and the fees and expenses of any environmental and analytical laboratories, consultants and engineers) suffered or incurred by Mortgagee as a result of the future existence of any hazardous materials in, on, under, about or emanating from the Property or any part thereof as a result of Mortgagor's use or operation of the Property.

12. Governing Law. This Mortgage shall be governed by the laws of the State of Florida.

13. Compliance with Laws. Mortgagor shall not use the Property or allow the same to be used for any unlawful purpose or in violation of any governmental code, ordinance

or regulation or commit or permit to suffer thereon any condition that may in any way increase any ordinary fire or other hazard, or that may constitute a nuisance, public or private.

14. Modifications. This Mortgage may not be changed, terminated or modified orally or in any other manner than by an instrument in writing signed by the party against whom enforcement is sought.

15. Invalidity of Certain Provisions. If the lien of this Mortgage is invalid or unenforceable as to any part of the indebtedness, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured portion of the indebtedness, and all payments made on the indebtedness, whether voluntary or otherwise, shall be considered to have been first paid on and applied to the full payment of that portion of the indebtedness which is not secured or fully secured by the lien of this Mortgage.

16. Collection Expenses. All parties liable for the payment of the Note agree to pay the Mortgagee all costs incurred by the Mortgagee, whether or not an action be brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Grant Documents and in realizing on any of the security for the Note. Such costs and expenses shall include, but are not limited to, reasonable attorneys' fees, filing fees, costs of publication, deposition fees, stenographer fees, witness fees, title search or abstract costs and other court and related costs incurred or paid by Mortgagee in any action, proceeding or dispute in which Mortgagee is made a part or appears as a party plaintiff or party defendant because of the failure of the Mortgagor promptly and fully to perform and comply with all conditions and covenants of this Mortgage, the Note secured hereby, or the Grant Documents, including but not limited to, the foreclosure of this Mortgage, condemnation of all or part of the Property, or any action to protect the security thereof.

17. Attorneys' Fees. All parties liable for the payment of the Note agree to pay the Mortgagee reasonable attorneys' fees incurred by the Mortgagee, whether or not an action be brought, in collecting the sums due under the Note, enforcing the performance and/or protecting its rights under the Grant Documents and in realizing on any of the security for the Note. Such reasonable attorneys' fees shall include, but not be limited to, fees for attorneys, paralegals, legal assistants, and expenses incurred in any and all judicial, bankruptcy, reorganization, administrative receivership, or other proceedings affecting creditor's rights and involving a claim under the Note or the Grant Documents, which such proceedings may arise before or after entry of a final judgment. Such fees shall be paid regardless whether suit is brought and shall include all fees incurred by Mortgagee at all trial and appellate levels including bankruptcy court.

**IF ALL OR ANY PART OF THE PROPERTY, OR ANY INTEREST THEREIN, IS SOLD OR TRANSFERRED, VOLUNTARILY OR INVOLUNTARILY, INCLUDING FORECLOSURE, WITHOUT THE PRIOR WRITTEN CONSENT OF THE MORTGAGEE, WHICH CONSENT**

MAY BE WITHHELD, THE MORTGAGEE, AT ITS OPTION, MAY DECLARE THE ENTIRE UNPAID BALANCE SECURED HEREBY, DUE AND PAYABLE, NOTWITHSTANDING ANYTHING HEREIN OR IN THE NOTE SECURED HEREBY TO THE CONTRARY. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

[SIGNATURES ON NEXT PAGE]

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

WITNESSES:

MORTGAGOR:

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

\_\_\_\_\_  
Print Name \_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Sworn to and subscribed before me this \_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, an individual,  who personally appeared before me and who did not take an oath and who is personally known to me or  who has produced \_\_\_\_\_ as identification.

[seal]

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

Commission No: \_\_\_\_\_

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EXHIBIT "A"

LEGAL DESCRIPTION

KELSEY CITY LTS 43, 44, 45 AND 46, BLOCK 3, NOW KNOWN AS LAKE PARK,  
ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 8, PAGE  
34, PUBLIC RECORDS OF PALM BEACH COUNTY