

☒ Pledgor

☐ Certificated

☒ LLC Borrower

Interest in Borrower:

Pledged Equity Interest:

100.00

%

SAMPLE

PLEDGE AND ASSIGNMENT AGREEMENT

(Equity Interests)

This PLEDGE AND ASSIGNMENT AGREEMENT (Membership Interests) (the "**Agreement**"), dated as of **December 15, 2023**, made and entered into by those named persons listed below and shown in this Agreement (collectively referred to in the singular as "**Pledgor**") and by **LLC BORROWER, a California limited liability company ("Debtor")**, in favor and for the benefit of **LOANDOC SOLUTIONS, a California corporation (the "Secured Party")**.

RECITALS:

This Agreement is executed by Pledgor for the purpose of inducing Secured Party to make a loan to Debtor in the principal sum of **ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00)** (the "**Loan**"), as set forth in that certain Loan Agreement of even date herewith between Debtor and Secured Party (the "**Loan Agreement**"). Pursuant to the terms and conditions of the Loan Agreement, Secured Party has made the Loan to Debtor to facilitate Debtor's current and future business enterprises. All documents evidencing, securing obligations under, and/or relating to the Loan, including without limitation the Loan Agreement, shall be referred to herein as the "**Loan Documents**." Any term not specifically defined herein shall have the meaning given to such term as set forth and defined in the Loan Documents.

Pledgor includes the Managing Member(s) and all other Members of Debtor. Each Pledgor is the owner of a percentage interest in the Pledged Equity Interests (as defined below); as set forth in **Exhibit "A"** attached hereto and incorporated herein pursuant to those certain documents evidencing or relating to the formation, organization, management and/or operation of Debtor (collectively, the "**Organizational Documents**").

Pledgor agrees to support the creditworthiness and financial capacity of Debtor to fully repay the Loan to Secured Party, and thereby agrees to pledge, assign, and grant a first lien perfected security interest to Secured Party in all "**Pledged Collateral**" (as defined below). To secure payment and performance of Debtor's "**Secured Obligations**" (as defined below) under the Note and the other Loan Documents, Pledgor has agreed to enter into this Agreement in favor of Secured Party.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of the which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

1. **Rules of Construction.** Unless otherwise defined herein and unless the context otherwise requires, all terms used herein which are defined by the Uniform Commercial Code as in effect on the date hereof in the State of California (the "**UCC**") shall have the same meanings assigned to them by the UCC, unless and to the extent varied by this Agreement. The words "hereof", "herein", and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section, subsection, schedule, and exhibit references are references to sections or subsections of, or schedules or exhibits to, as the case may be, this Agreement unless otherwise specified. As used herein, the singular number shall include the plural, the plural the singular, and the use of the masculine, feminine or neuter gender shall include all genders, as the context may require.

2. **Grant of Security Interest.** Pledgor hereby grants to Secured Party and each of Secured Party's successors, endorsees, and permitted assignees, a continuing security interest in the Pledged Collateral, including, but not limited to, all of Pledgor's right, title, and interest in and to the assets of and ownership in Debtor, and together with any and all proceeds, increases, substitutions, replacements, repairs, additions, and accessions thereof and thereto (the "**Pledge and Assignment**"); provided, however, pursuant to the Pledge and Assignment, Secured Party shall have no recourse to any funds, assets, revenues, gifts, grants, bequests and contributions (including income and profits therefrom) specifically restricted by the donor or maker thereof or restricted by law to a particular purpose inconsistent with their use as security for the Secured Obligations. In specific, but not by way of limitation, the Pledged Collateral shall include all of Pledgor's right, title, and interest in and to the following assets,

to the extent that such Pledged Collateral as described hereinbelow is or shall be owned and/or in the possession of Pledgor (subject to the restrictions to and prohibitions against Debtor or Pledgor approving or completing (i) the sale, transfer, assignment, or encumbrance of the Pledged Collateral, and (ii) changes to the management or in ownership of Debtor, all as set forth in the Loan Documents):

(a) **Pledged Membership Interests.** All interests in Debtor held by Pledgor (individually, "**Company**," and collectively, "**Companies**") and all interests in any Debtor obtained in the future by Pledgor and the certificates, if any, representing or evidencing such interests and any interest of Pledgor on the books and records of such Debtor or on the books and records of any securities intermediary pertaining to such interest, and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such interests, and all rights and privileges of Pledgor with respect to such interests ("**Pledged Equity Interests**"); and

(b) **Additional Collateral.** Any and all proceeds, increases, funds, assets, revenues, gifts, grants, bequests contributions, substitutions, replacements, repairs, additions, and accessions of or to the Pledged Equity Interests (collectively, the "**Additional Collateral**"; and, such Additional Collateral, together with the Pledged Equity Interests, collectively shall be referred to as the "**Pledged Collateral**"). With respect to each item of Pledged Collateral, the security interest granted herein shall attach immediately upon Pledgor's execution hereof, as soon as Pledgor acquires rights in and to such item of Pledged Collateral, Pledgor's delivery thereof to Secured Party, or as soon as Pledgor acquires rights in and to such item of Pledged Collateral, whichever is earliest.

3. **Acceptance of Pledge and Assignment.** Secured Party accepts the foregoing Pledge and Assignment; provided, however, that notwithstanding the Pledge and Assignment of the Pledged Collateral, Pledgor assumes and retains all the obligations of Pledgor under the Organizational Documents which may arise from and after the date hereof.

4. **Article 8 of the UCC.** Pledgor hereby irrevocably elects that all Pledged Equity Interests in Debtor shall be securities governed by Article 8 of the Uniform Commercial Code. Each certificate evidencing the Pledged Equity Interests in Debtor shall bear the following legend: "This certificate evidences an interest in Debtor and shall be a security for purposes of Article 8 of the Uniform Commercial Code." No change to this provision shall be effective until all outstanding certificates have been surrendered for cancellation and any new certificates thereafter issued shall not bear the foregoing legend.

5. **Certificates.** All the Pledged Equity Interests are either in certificated form or are registered on the books of Debtor in the name of each Pledgor. All certificates and/or books of Debtor evidencing the Pledged Collateral of Pledgor have been delivered to Secured Party. In addition, Pledgor immediately shall deliver to Secured Party any certificates that may be issued following the date of this Agreement representing the Pledged Equity Interests and the Additional Collateral; provided, however, that in the event that the Pledged Equity Interests are not in certificated form and are not registered on the books as certificated equity ownership interests in the name of each Pledgor, then Secured Party shall prior to the date hereof either (a) require Debtor and each Pledgor to prepare and deliver to Secured Party certificates in form reasonably acceptable to Secured Party evidencing that the Pledged Equity Interests are in certificated form and are registered on the books of Debtor in the name of each Pledgor, with such certificates evidencing the Pledged Collateral of Pledgor to be delivered to Secured Party as provided herein, or (b) require Debtor and each Pledgor to execute and deliver to Secured Party that certain Assignment Separate From Certificate, substantially in the form of **Exhibit "C"** attached hereto or otherwise in form and content satisfactory to Secured Party, pursuant to which each Pledgor assigns, in blank, all uncertificated Pledged Equity Interests and the Additional Collateral as if such Pledged Collateral were in certificated form.

6. **Registration of Pledge in Books of Debtor; Application of Proceeds.** Pledgor hereby authorizes and directs Debtor to register Pledgor's Pledge and Assignment to Secured Party, for its benefit and the benefit of Secured Party, of the Pledged Collateral on the books of Debtor and, following written notice to do so by Secured Party after the occurrence of an Event of Default (as hereinafter defined) under this Agreement, to make direct payment to Secured Party of any amounts due or to become due to Pledgor with respect to the Pledged Collateral. Any moneys received by Secured Party shall be applied to the Obligations in such order and manner of application as Secured Party may from time to time determine in its sole discretion

7. **Obligations to be Secured.** Whether or not recovery upon Debtor's obligations under the Loan is now or hereafter becomes barred by any statute of limitations or is now or hereafter becomes otherwise unenforceable, the security interests herein granted shall secure such Loan obligations which shall specifically include (without limitation to any of the covenants, promises or requirements of the Loan Documents) (collectively, the "**Secured Obligations**"):

(a) **Obligations Evidenced by the Loan Documents.** The prompt and complete payment and performance of each indebtedness, obligation, and covenant of Debtor in favor of Secured Party arising under the Loan Documents, and any renewals or extensions thereof or amendments thereto, including, without limitation, the payment of amounts which would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a) and interest which, but for the filing of a petition in bankruptcy, would accrue on such obligations; and

(b) **Fees and Expenses.** The payment and reimbursement of all fees and expenses, including, without limitation, reasonable attorneys' fees, court costs, and collection and receivers' expenses, advanced or reasonably incurred by Secured Party in connection with the perfection and protection of the security interests herein granted, the preservation or disposition of the Pledged Collateral, or any part thereof, or the enforcement by Secured Party of any of the foregoing obligations whether upon default by Debtor or otherwise. It is the intention of Debtor that the continuing grant of security interests provided for herein shall remain as security for the payment and performance of the Secured Obligations, whether now existing or hereinafter incurred, and whether or not contemplated by the parties at the date hereof. No notice of the continuing grant of such security interests, therefore, shall be required to be stated on the face of any document representing any such Secured Obligations, nor shall it otherwise be necessary to identify any such Secured Obligations as being secured hereby. Any such Secured Obligations shall be deemed to have been made pursuant to Section 9204 of the UCC.

8. **Duration of Secured Obligations.** The Secured Obligations shall be released and all Secured Party's claims against the Pledged Collateral shall expire upon Secured Party's receipt of Debtor's obligations in full under the Loan Documents.

9. **Affirmative Covenants.** Debtor covenants that until such time as all the Secured Obligations are indefeasibly paid or satisfied in full, unless Secured Party shall otherwise consent in writing:

(a) **Financing Statements; Further Documents.** Debtor shall, and shall take affirmative reasonable steps to cause third parties, from time to time at the reasonable request of Secured Party, whether before or after the occurrence of an Event of Default, to authorize Secured Party to complete and file such UCC-1 financing statements, amendments thereto, continuation statements, and other documents, in form and substance reasonably satisfactory to Secured Party showing Debtor, as borrower, and Secured Party, as secured party, and shall do such other acts and things as Secured Party may reasonably request, to create, perfect, and continue Secured Party's security interests in the Pledged Collateral and to maintain the priority thereof. Debtor hereby authorizes Secured Party at any time and from time to time to file and/or record any or all such financing statements, amendments thereto, continuation statements, instruments, and documents and to take all such other actions as Secured Party may deem appropriate to perfect and to maintain perfected the security interests granted herein, without the signature of Debtor (where permitted by law);

(b) **Delivery of Pledged Collateral.** With respect to any Pledged Collateral consisting of certificated securities, instruments, documents, chattel paper (including, without limitation, electronic chattel paper and tangible chattel paper that evidence the Receivables), letters or advices of credit, certificates of title, or the like, as to which Secured Party's security interest need or may be perfected by, or the priority thereof need be assured by, possession of such Pledged Collateral, Debtor shall upon demand of Secured Party deliver possession of same in Pledge and Assignment to Secured Party, endorsed or accompanied by such instruments of assignment or transfer as Secured Party may specify and stamped or marked in such manner as Secured Party may specify. With respect to any Pledged Collateral consisting of securities, instruments, partnership, or joint venture interests or the like, Debtor hereby consents and agrees that the issuers of, or obligors on, any such Pledged Collateral, or any registrar or transfer agent or trustee for any such Pledged Collateral, shall be entitled to accept the provisions of this Agreement as conclusive evidence of the right of Secured Party to effect any transfer or to exercise any right hereunder or with respect to any such Pledged Collateral, notwithstanding any

other notice or direction to the contrary heretofore or hereafter given by Debtor or any other person to such issuers or such obligors or by any such registrar or transfer agent or trustee;

(c) **Records.** Debtor shall make appropriate notations and entries in its ledgers, books of account, and financial statements disclosing the security interests of Secured Party in the Pledged Collateral.

(d) **Deposit Accounts; Consents and Estoppel Certificates.** Debtor shall, at its sole cost and expense, take such steps as Secured Party may deem reasonably necessary or desirable in order to (i) perfect the security interests of Secured Party with respect to the Deposit Accounts including, without limitation, delivering to Secured Party any and all instruments or other documents relating to such Deposit Accounts and giving notices and taking all other actions reasonably requested by Secured Party in order to give Secured Party access to such Deposit Accounts; (ii) obtain all necessary consents to the transfer or hypothecation hereunder of any Contracts or Licenses and Permits which may not be transferred or hypothecated hereunder until such consent is obtained; and (c) obtain such estoppel certificates as Secured Party may require from other parties to Contracts or Licenses and Permits;

(e) **Protection of Security and Legal Proceedings.** Debtor shall, at its own expense, take any and all actions reasonably necessary to preserve, protect, and defend the security interests of Secured Party in the Pledged Collateral and the perfection and priority thereof against any and all adverse claims, including appearing in and defending all actions and proceedings which purport to affect any of the foregoing. Debtor shall cooperate with Secured Party in any litigation brought against Secured Party related to the Pledged Collateral and this Agreement. Debtor shall promptly reimburse Secured Party for any and all sums, including costs, expenses, and actual attorneys' fees that Secured Party may pay or incur in defending, protecting, or enforcing its security interests in the Pledged Collateral or the perfection or priority thereof or in discharging any prior or subsequent lien or adverse claim against the Pledged Collateral or any part thereof or by reason of becoming or being made a party to or intervening in any action or proceeding affecting the Pledged Collateral or the rights of Secured Party therein, all of which actions Debtor hereby agrees that Secured Party shall have the right to take in its sole and absolute discretion;

(f) **Payment of Taxes.** Debtor shall pay or cause to be paid all taxes and other levies with respect to the Pledged Collateral when the same become due and payable except such as are being contested in good faith and bonded or accrued for in a manner reasonably satisfactory to Secured Party by appropriate proceedings, where the effect of such proceedings is to stay any enforcement in respect of such unpaid taxes, and provided that, in any such case, Debtor shall set aside on its books reserves reasonably deemed by Secured Party to be adequate to protect against liability for such taxes;

(g) **Use and Maintenance of Pledged Collateral.** Debtor shall comply with all laws, statutes, and regulations pertaining to its use and ownership of the Pledged Collateral and its conduct of its business; properly care for and maintain all of the Pledged Collateral in good condition, free of misuse, abuse, waste, and deterioration, reasonable wear and tear of intended use excepted; promptly notify Secured Party of any loss or damage to the Pledged Collateral, or any material portion thereof (whether or not covered by insurance); keep accurate and complete books and records pertaining to the Pledged Collateral in accordance with generally accepted accounting principles; and promptly and completely perform and maintain in full force and effect all of the Contracts or Licenses and Permits; provided, however, notwithstanding anything in this Agreement to the contrary, prior to the occurrence and continuance of an Event of Default, Debtor shall be permitted to acquire, use and dispose of the Pledged Collateral in the ordinary course of business in exchange for fair market value or for some other consideration which is consistent with a valid business purpose;

(h) **Inspection.** Pledgor shall give Secured Party such information as may be reasonably requested concerning the Pledged Collateral and shall at all reasonable times and upon reasonable notice permit Secured Party and its agents and representatives to enter upon any premises upon which the Pledged Collateral is located for the purpose of inspecting the Pledged Collateral. Furthermore, Secured Party shall at all reasonable times on reasonable notice have full access to and the right to audit any and all of Pledgor's books and records pertaining to the Pledged Collateral, to confirm and verify the value of the Pledged Collateral, and to do whatever else Secured Party reasonably may deem necessary or desirable to protect its interests; and

(i) **Pledgor Performance Covenants.** Pledgor hereby covenants and agrees as follows:

(1) To do or cause to be done all things necessary to preserve and to keep in full force and effect its

interests in the Pledged Collateral, and to defend, at its sole expense, the title to the Pledged Collateral and any part of the Pledged Collateral;

(2) To cooperate fully with Secured Party's efforts to preserve the Pledged Collateral and to take such actions to preserve the Pledged Collateral as Secured Party may in good faith direct;

(3) To cause Debtor to maintain proper books of record and account in which full, true, and correct entries are made of all dealings and transactions in relation to the Pledged Collateral and which reflect the lien of Secured Party on the Pledged Collateral;

(4) That each Pledgor will, upon obtaining ownership of any other Pledged Equity Interests following the date of this Agreement which are required to be and, pursuant hereto are, pledged to Secured Party pursuant to this Agreement and the Loan Documents, within five (5) Business Days deliver to Secured Party a Pledge Addendum, duly executed by Debtor and every Pledgor, in substantially the form of **Exhibit "B"** hereto (a "**Pledge Addendum**") in respect of any such additional Pledged Equity Interests pursuant to which Pledgor shall pledge to Secured Party all of such additional Pledged Equity Interests. Prior to the delivery thereof to Secured Party, all such additional Pledged Equity Interests shall be held by Pledgor separate and apart from its other property and in express trust for Secured Party;

(5) Not to sell, discount, allow credits or allowances, assign, extend the time for payment on, convey, lease, assign, transfer or otherwise dispose of the Pledged Collateral or any part of the Pledged Collateral;

(6) After an Event of Default under this Agreement or the Loan Documents (as described below), not to receive any dividend or distribution or other benefit with respect to Debtor, and not to vote, consent, waive or ratify any action taken, that would violate or be inconsistent with any of the terms and provisions of this Agreement, or any of the Financing Documents or that would materially impair the position or interest of Secured Party in the Pledged Collateral or dilute the Pledged Equity Interests pledged to Secured Party under this Agreement;

(7) Not to sell or otherwise dispose of, or create, incur, assume, or suffer to exist any lien upon any of the Pledged Collateral, other than liens in favor of Secured Party;

(8) To deliver immediately to Secured Party any certificates that may be issued following the date of this Agreement representing the Pledged Equity Interests or other Pledged Collateral, and to have Pledgor and Debtor execute and deliver to Secured Party one or more transfer powers as set forth in the Pledge Addendum, pursuant to which Pledgor assigns, in blank, all Pledged Equity Interests and other Pledged Collateral (the "**Transfer Powers**"), which such Transfer Powers shall be held by Secured Party as part of the Pledged Collateral;

(9) That Pledgor consents herein to the admission of Secured Party (and its assigns or designee) as a member, partner, or stockholder of Debtor upon Secured Party's acquisition of any of the Ownership Interests; and

(10) To amend Debtor's Organizational Documents with an amendment substantially in the form and content set forth in **Exhibit "D"** attached hereto and incorporated herein (or such other form acceptable to Secured Party in its reasonable discretion).

10. **Representations and Warranties of Debtor.** Debtor hereby represents and warrants to Secured Party that:

(a) Except for the security interests granted to Secured Party hereby, Pledgor has, and will at all times during the term hereof have, good and valid title to all and every part of the Pledged Collateral, free and clear of any mortgage, pledge, lien, security interest, encumbrance, conditional sale contract, lease or other title retention agreement, or any other adverse claim of any nature whatsoever, except as otherwise permitted hereinbelow;

(b) Upon the execution and delivery of this Agreement by Debtor and the filing of appropriate financing statements with the appropriate governmental agencies or, as applicable, upon Secured Party's taking possession of the Pledged Collateral, Secured Party will have a perfected security interest in and to the Pledged Collateral having first priority for the full amount of all of the Secured Obligations, subject only to the Permitted Liens and the Permitted Debt Financing Statement;

(c) Any and all information heretofore furnished to Secured Party by Debtor in connection with the Secured Obligations or Debtor's financial condition or the value or condition of the Pledged Collateral is true

and correct in all material respects, and all such information hereafter furnished to Secured Party by Debtor will be true and correct in all material respects when furnished;

(d) (i) The information shown in **Exhibit "A"** is true, correct and complete in all respects, (ii) the Pledged Equity Interests, as set forth on **Exhibit "A"**, constitute 100% of the issued and outstanding Pledged Equity Interests of Debtor, and (iii) the Pledged Equity Interests listed on **Exhibit "A"** are the only Pledged Equity Interests of Debtor in which each Pledgor has any rights;

(e) All certificates evidencing the Pledged Equity Interests of Pledgor have been delivered to Secured Party;

(f) Other than a requirement of consent as required in the Organizational Documents governing the Pledged Equity Interests (which such consent has been obtained), Pledgor is not prohibited under any agreement with any other person or entity, or under any judgment or decree, from the execution and delivery of this Agreement or the performance or discharge of the obligations, duties, covenants, agreements, and liabilities contained in this Agreement;

(g) No action has been brought or threatened that might prohibit or interfere with the execution and delivery of this Agreement or the performance or discharge of the obligations, duties, covenants, agreements, and liabilities contained in this Agreement;

(h) Pledgor has full power and authority to execute and deliver this Agreement, and the execution and delivery of this Agreement does not conflict with any agreement to which Pledgor is a party or any law, order, ordinance, rule, or regulation to which Pledgor is subject or by which it is bound and do not constitute a default under any agreement or instrument binding upon Pledgor; and

(i) This Agreement has been properly executed and delivered and constitutes the valid and legally binding obligation of Pledgor and is fully enforceable against Pledgor in accordance with its terms.

11. **Negative Covenants.** Pledgor covenants that until such time as all the Secured Obligations are indefeasibly paid or satisfied in full, without the prior written consent of Secured Party, Pledgor shall not directly or indirectly, whether voluntarily, involuntarily, by operation of law or otherwise (a) sell, assign, transfer, exchange, lease, license, lend, or dispose of any of the Pledged Collateral, or any of Pledgor's rights therein, or enter into any agreement to take any of, the foregoing actions, nor (b) cause, suffer or permit any of the Pledged Collateral, or any of Pledgor's rights therein, to be affected by any encumbrance, security interest or adverse claim of any kind or nature whatsoever.

(a) **No Sale or Hypothecation of Pledged Collateral.** Except:

(i) Liens in favor of Secured Party;

(ii) Inchoate or statutory liens for taxes which have not been assessed and which are not delinquent or, if assessed, are being contested in good faith by appropriate proceedings and provided that, in any such case, the effect of such proceedings is to stay the enforcement of such liens; and

(iii) Other liens as may from time to time be expressly permitted in writing by Secured Party in its sole discretion.

The inclusion of "**proceeds**" as a component of the Pledged Collateral shall not be deemed a consent by Secured Party to any sale assignment, transfer, exchange, lease, license, loan, granting of an option with respect to or disposition of all or any part of the Pledged Collateral;

(b) **Location of Pledged Collateral; Changes of Name.** Debtor shall not, without giving to Secured Party at least ninety (90) days' prior written notice, (a) cause or allow any of the Pledged Collateral to be moved; (b) move its chief executive office or the location of its books or records; (c) change its name, its trade or fictitious business name(s), business structure, or its form of doing business; or (d) liquidate, merge, or consolidate with or into any other business organization;

(c) **Certain Agreements.** Debtor shall not cause, suffer, or permit to occur any compromise, adjustment, amendment, modification, settlement, waiver, substitution, or termination in respect of any Receivable, other than in the ordinary course of business, or in respect of any Contracts or Licenses and Permits; nor cause, suffer or permit anything to be done which might impair, or fail to do anything necessary or advisable in order to preserve, the value of the Pledged Collateral and the security interests of Secured Party therein;

(d) **Preservation of Pledged Collateral.** Debtor shall not cause or allow anything to be done that might materially impair or fail to do anything necessary or advisable to preserve, the value of the Pledged Collateral and the security interests of Secured Party therein. Debtor shall not use nor permit the use of the Pledged Collateral for illegal purposes.

12. Rights of Secured Party with Respect to Pledged Collateral.

(a) **Inspection and Performance of Obligations.** At any time (whether or not an Event of Default has occurred), without notice or demand, Secured Party may, to the extent it may be necessary or desirable to protect its security hereunder, but Secured Party shall not be obligated to: (a) at the expense of Secured Party, enter upon any premises on which Pledged Collateral is situated and examine the same or (b) at the expense of Debtor, perform any obligation of Debtor under this Agreement.

(b) **Rights to Audit.** Secured Party shall at all reasonable times on reasonable notice have full access to and the right to audit any and all of Debtor's books and records pertaining to the Pledged Collateral, to confirm and verify the value of the Pledged Collateral and to do whatever else Secured Party reasonably may deem necessary or desirable to protect its interests.

(c) **Protection and Preservation of Pledged Collateral.** In case of any failure of Debtor to keep the Pledged Collateral free from liens or adverse claims (except as otherwise provided herein), or to pay taxes on or in respect thereof, or fully and punctually to keep and perform any other covenant hereof, then Secured Party may (but shall have no duty or obligation to do so) pay, contest, or settle such taxes, liens or adverse claims, or any judgments based thereon, take any action to preserve any rights of or against any prior or other parties in connection with the Pledged Collateral, exercise any voting rights or managerial rights with respect to any Pledged Collateral, make or give any presentments, demands for performance, notices of non-performance, protests, notices of protests, notices of dishonor, or notices of any other nature whatsoever in connection with the Pledged Collateral or the Secured Obligations, or otherwise make good any other aforesaid failure of Debtor. Debtor shall promptly reimburse Secured Party for any sums which may be paid or advanced by Secured Party for any such purpose, together with interest at the maximum rate permitted by law from the date of any such advance to the date of reimbursement.

(d) **Attorney-In-Fact.** Debtor hereby appoints Secured Party as its attorney-in-fact, with full power of substitution, to do any act that Debtor is obligated by this Agreement to do and to take any action and execute and deliver, and if appropriate, file, and/or record with the appropriate office, any agreements, documents, or instruments, including, without limitation, security agreements, financing statements, financing statement amendments, continuation statements, or other instruments without the signature of Debtor (where permitted by law), that Secured Party may deem necessary or advisable to accomplish the purposes hereof, upon the occurrence of any Event of Default or an event that, with notice or lapse of time, or both, would become an Event of Default but not before, which appointment is irrevocable and coupled with an interest.

13. Rights of Pledgor in the Pledged Collateral. Until any Event of Default occurs under this Agreement, Pledgor shall be entitled to exercise all voting rights and to receive all dividends and other distributions that may be paid on any Pledged Collateral and that are not otherwise prohibited by this Agreement and the Loan Documents. Any cash dividend or distribution payable in respect of the Pledged Collateral that is, in whole or in part, a return of capital or that is made in violation of this Agreement or the Loan Documents shall be received by Pledgor shall be paid immediately to Secured Party and shall be retained by Secured Party as part of the Pledged Collateral. Upon the occurrence and during the continuation of an Event of Default, Pledgor shall, at the written direction of Secured Party, immediately send a written notice to Debtor instructing Debtor, and shall cause Debtor, to remit all cash and other distributions payable with respect to the Pledged Equity Interests (until such time as Secured Party notifies Pledgor that such Event of Default has ceased to exist) directly to Secured Party. Nothing contained in this Section 12 shall be deemed to permit the payment of any sum or the making of any distribution which is prohibited by this Agreement or the Loan Documents, if any.

14. Events of Default; Remedies of Secured Party. For purposes of this Agreement, an "Event of Default" shall mean the occurrence and continuance of any of the following events or conditions: (a) any representation or warranty made to Secured Party by Debtor in this Agreement or any other Loan Documents was false in any material respect when made or deemed made; (b) the breach by Debtor of any covenant or other term or condition of this Agreement or any other Loan Documents, and Debtor fails to cure such breach to Secured Party's reasonable

satisfaction within ten (10) days from and after receipt of written notice of such event of default from Secured Party; or (c) the occurrence of any event of default under the Loan Documents. Upon the occurrence of any Event of Default, then, in addition to all other rights and remedies of Secured Party hereunder or at law or in equity, upon the occurrence of such Event of Default or any time thereafter, Secured Party may exercise any and all of the following rights and remedies, all of which shall be cumulative and not mutually exclusive:

(a) **Acceleration of Secured Obligations.** Secured Party may declare any or all Secured Obligations, or any part thereof, to be immediately due and payable without demand or notice and Secured Party may proceed to collect the same.

(b) **Notification to Third Parties.** Secured Party may (a) collect any and all amounts due to Debtor from other persons and (b) notify any account borrower obligated on any of the Receivables or any purchaser of the Pledged Collateral or any other person of Secured Party's interest in the Pledged Collateral and instruct any such persons to make payments thereon directly to Secured Party.

(c) **Handling of Funds.** Secured Party may require Debtor to hold in trust for Secured Party all payments received by Debtor without commingling them with any other funds and Secured Party may require Debtor either to turn over to Secured Party in the form received all checks, drafts, cash, and other remittances with any necessary endorsements or to deposit them immediately in a separate account maintained by Secured Party;

(d) **Compromise of Claims.** Secured Party may grant extensions, compromise claims, and settle Pledged Collateral for less than face value, all without prior notice to Debtor;

(e) **Appointment of Receiver.** Without regard to the adequacy of the security for the Secured Obligations by virtue of this Agreement or any other collateral and without regard to the solvency of Debtor, Secured Party may institute legal proceedings for the appointment of a receiver or receivers with respect to any or all of the Pledged Collateral pending foreclosure hereunder or for the sale of any or all of the Pledged Collateral under the order of a court of competent jurisdiction or under other legal process;

(f) **Retention of Pledged Collateral.** Secured Party may choose to accept the Pledged Collateral after giving notice of such proposal to Debtor and to any other person with a security interest in such Pledged Collateral, and such acceptance shall discharge the Secured Obligations, provided that neither Debtor nor any other person with a security interest in such Pledged Collateral objects in writing to such proposal within twenty-one (21) days from receipt of such notice;

(g) **Setoff.** Secured Party may set off the Secured Obligations, or any part thereof, against any property of Debtor with or in the possession of Secured Party, whatever the source of such property; and

(h) **Other Rights Against Debtor.** Secured Party may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party under the UCC, and Secured Party may also without notice except as specified below sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, for cash, on credit or for future delivery, and upon such other terms as Secured Party in its sole and absolute discretion may deem commercially reasonable. Debtor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' written notice to Debtor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. Secured Party shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Debtor hereby waives any claims against Secured Party arising by reason of the fact that the price at which any Pledged Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale, even if Secured Party accepts the first offer received and does not offer such Pledged Collateral to more than one offeree and, in all events, such sale shall be deemed to be commercially reasonable. At any such public or private sale, Secured Party may be the purchaser of the Pledged Collateral.

15. **Additional Rights of Secured Party Following Event of Default.** Upon the occurrence of an Event of Default under this Agreement (and in addition to all of its other rights, powers and remedies under this Agreement), Secured Party may, at its option, without notice to Pledgor or any other party, do any one or more of the following:

(a) Proceed to perform or discharge any and all of Pledgor's obligations, duties, responsibilities, or liabilities and exercise any and all of its rights in connection with the Pledged Collateral for such period of time as Secured Party may deem appropriate, with or without the bringing of any legal action in or the appointment of any receiver by any court;

(b) Do all other acts which Secured Party may deem necessary or proper to protect Secured Party's security interest in the Pledged Collateral and carry out the terms of this Agreement;

(c) Exercise all voting and management rights of Pledgor as to Debtor or otherwise pertaining to the Pledged Collateral, and Pledgor, forthwith upon the request of Secured Party, shall use its best efforts to secure, and cooperate with the efforts of Secured Party to secure (if not already secured by Secured Party), all the benefits of such voting and management rights; and

(d) Proceed by suit or suits in law or in equity or by any other appropriate proceeding or remedy to enforce the performance of any term, covenant, condition, or agreement contained in this Agreement, and institution of such a suit or suits shall not abrogate the rights of Secured Party to pursue any other remedies granted in this Agreement or to pursue any other remedy available to Secured Party either at law or in equity. Secured Party shall have all the rights and remedies of a secured party under the UCC and other applicable laws. All costs and expenses, including reasonable attorneys' fees and expenses, incurred or paid by Secured Party in exercising or protecting any interest, right, power or remedy conferred by this Agreement, shall bear interest at a per annum rate of interest equal to the then highest rate of interest charged on any of the Obligations from the date of payment until repaid in full and shall, along with the interest thereon, constitute and become a part of the Obligations secured by this Agreement.

Pledgor hereby constitutes Secured Party as the attorney-in-fact of Pledgor after an Event of Default under the Financing Documents (including but not limited to this Agreement) to take such actions and execute such documents as Secured Party may deem appropriate in the exercise of the rights and powers granted to Secured Party in this Agreement, including, but not limited to, filling-in blanks in the Transfer Power to cause a transfer of the Ownership Interests and other Pledged Collateral pursuant to a sale of the Pledged Collateral. The power of attorney granted hereby shall be irrevocable and coupled with an interest and shall terminate only upon the payment in full of the Obligations. Pledgor shall indemnify and hold Secured Party harmless for all losses, costs, damages, fees, and expenses suffered or incurred in connection with the exercise of this power of attorney and shall release Secured Party from any and all liability arising in connection with the exercise of this power of attorney.

16. **Demands, Notices, etc., Commercially Reasonable Sale.** All demands of performance, advertisements, notices of sale or retention, and manner of sale, as well as the presence of the Pledged Collateral at any sale and the constructive possession of the Pledged Collateral by the person conducting any sale, except only as provided by the UCC, are hereby specifically waived by Debtor.

17. **Cumulative Rights; No Waiver.** The several rights and remedies of Secured Party hereunder or referred to herein shall, to the fullest extent permitted by law, be construed as cumulative, and no one of them shall be exclusive of the others. No delay or omission of Secured Party in exercising any right or remedy provided in this Agreement or arising from any default of any Secured Obligations shall be construed as an acquiescence therein, a waiver of such default, or a waiver of or limitation upon the right of Secured Party to exercise, at any time and from time to time thereafter, any right or remedy under this Agreement. No waiver of any breach of any of the covenants or conditions of this Agreement shall be construed to be a waiver of or acquiescence in any preceding or subsequent breach of the same or any other condition or covenant. If the performance of any Secured Obligations is at any time secured by any other instrument or instruments, the exercise by Secured Party of any right or remedy under any such other instrument shall not be construed as or deemed to be a waiver of any limitation upon the right of Secured Party to exercise, at any time and from time to time thereafter, any right or remedy under this Agreement or under any such other instrument. The rights of Secured Party hereunder shall not be exhausted by its exercise of any of its rights and remedies or by any action or by any number of successive actions until and unless all Secured Obligations secured hereby has been paid in full.

18. **Liability and Indemnification.** Secured Party shall not be liable to Debtor for any act of or omission by Secured Party unless Secured Party's conduct (or the conduct of Secured Party's agents or representatives)

constitutes willful misconduct or gross negligence. Debtor agrees to indemnify and to hold Secured Party harmless from and against all losses, liabilities, claims, damages, costs, and expenses (including actual attorneys' fees and disbursements) with respect to (a) any action taken by Secured Party with respect to its interest in, or rights with respect to, the Pledged Collateral under this Agreement, provided that Secured Party's conduct does not constitute willful misconduct or gross negligence, and (b) any claims arising out of Debtor's ownership of the Pledged Collateral or Secured Party's security interest therein.

19. **Assignment of Obligations.** Secured Party may transfer or negotiate any Secured Obligations, and upon such transfer or negotiation Secured Party may transfer therewith all or any part of the Pledged Collateral. Thereupon Secured Party shall be wholly discharged from all liability and responsibility with respect to the amount of the Secured Obligations and the Pledged Collateral so transferred. With respect to any Secured Obligations or Pledged Collateral not so transferred, Secured Party shall retain all its rights hereunder.

20. **Security Interests Absolute.** All rights of Secured Party and security interests hereunder, and all Secured Obligations of Debtor hereunder, shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Security Documents or any other agreement or instrument relating thereto, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Loan Documents or any other agreement or instrument relating thereto, (c) any exchange, release or non-perfection of any other Pledged Collateral, or any release or amendment or waiver of or consent to departure from any guaranty for all or any of the Secured Obligations, or (d) any other circumstance which might otherwise constitute a defense available to, or a discharge of, Debtor.

21. **Covenants and Waivers.** Secured Party may, at any time and from time to time, in Secured Party's sole and absolute discretion, without notice or demand and without affecting the enforceability or continuing effectiveness of this Agreement: (a) subject, in all cases to the terms and conditions of the agreements and instruments evidencing the Secured Obligations (including, without limitation, any requirement to obtain the consent of Debtor under such agreements and/or instruments), supplement, modify, amend, extend, renew, accelerate, waive, or otherwise change the time for payment or the terms of any Secured Obligations or any additional security or guaranties now or hereafter held therefor; (b) enter into or give any agreement, approval, or consent with respect to any Secured Obligations or any additional security or guaranties now or hereafter held therefor; (c) accept new or additional instruments, documents, or agreements in exchange for or relative to any Secured Obligations; (d) accept partial payments on any Secured Obligations; (e) receive and hold additional security or guaranties for the Secured Obligations; (f) settle, release, liquidate, and/or fail to enforce any Secured Obligations; (g) release, reconvey, terminate, waive, abandon, fail to perfect, subordinate, transfer, and/or fail to enforce any other security or guaranties now or hereafter held for any Secured Obligations; (h) substitute, exchange, amend, or alter any other security or guaranty now or hereafter held for any Secured Obligations, whether or not the security or guaranty received upon the exercise of such power is of the same character or value as the security or guaranty so affected; (i) consent to the transfer of any such other security and bid and purchase the same at any sale thereof; and/or (j) consent to any merger, change or other restructuring or termination of the corporate existence of Debtor or any other person and correspondingly restructure any Secured Obligations. To the fullest extent permitted by law, Debtor hereby waives (i) any right to require Secured Party to proceed against any other person or to proceed against or exhaust any other security held by Secured Party at any time or to pursue any other remedy in Secured Party's power before exercising any right or remedy under this Agreement and (ii) demand, protest, and notice of any kind.

22. **Business Operations and Activities.** Notwithstanding anything contained in this Agreement to the contrary, Secured Party hereby acknowledges and agrees that Debtor shall be permitted, at Debtor's sole discretion, to coordinate its business operations and activities with one or more of Debtor's affiliates and perform such actions that it deems to be in the best interests of Debtor and/or the business operations and activities of Debtor and Debtor's affiliates. Secured Party hereby acknowledges and agrees that any such action may result in the diminishment in value of certain portions of the Pledged Collateral, and that such diminishment in value shall not constitute an Event of Default.

23. **No Guaranty by Pledgor.** Pledgor is not intended, and shall not be construed, to be a guarantor of the Secured Obligations or any of the other Secured Obligations solely as a result of each Pledgor's execution of this

Agreement and delivery of same to Secured Party. Notwithstanding this representation, warranty, and covenant by Pledgor and Debtor, Pledgor hereby expressly agrees that:

(a) The obligations of Pledgor under this Agreement shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of all other collateral pledged as security for the Secured Obligations. This Agreement is binding upon Pledgor and Pledgor's heirs, successors and assigns so long as any of the Secured Obligations or any of such surviving Secured Obligations remains unpaid or unperformed.

(b) Pledgor's obligations under this Agreement do not constitute an unconditional guaranty of payment or collection, and each Pledgor's obligations hereunder constitute the Pledge and Assignment of the Pledged Collateral which are direct obligations, and do not constitute suretyship obligations, of Pledgor. In connection with this Agreement, any Pledgor also might execute in favor of Secured Party a "continuing guaranty" under which such party agrees to guarantee the full and punctual payment and performance of the Secured Obligations to Secured Party on an open and continuing basis. However, this Agreement shall not be merged with or otherwise limited or affected by any such guaranty agreement executed by any Pledgor.

(c) The direct obligations of Pledgor under this Agreement shall be performed without demand by Secured Party and shall be unconditional irrespective of the genuineness, validity, regularity or enforceability of the Note, the Loan Agreement, the Mortgage, or any other Loan Document, and without regard to any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or a guarantor. To the extent that any court might conclude that suretyship principles apply to this Agreement which is contrary to intent and purpose of this Agreement), then Pledgor and Debtor agree that:

- (i) Pledgor hereby waives any and all benefits and defenses under applicable law and agrees that by doing so Pledgor shall be liable even if Debtor had no liability at the time of execution of the Note, the Loan Agreement, the Mortgage or any other Loan Document, or thereafter ceases to be liable. Pledgor hereby waives all benefits and defenses under applicable law and agrees that by doing so Pledgor's liability may be larger in amount and more burdensome than that of Debtor. Pledgor hereby waives the benefit of all principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms of this Agreement and agrees that Pledgor's obligations shall not be affected by any circumstances, whether or not referred to in this Agreement, which might otherwise constitute a legal or equitable discharge of a surety or a guarantor. Pledgor hereby waives the benefits of any right of discharge under all statutes or other laws relating to guarantors or sureties and any other rights of sureties and guarantors thereunder. Without limiting the generality of the foregoing, Pledgor hereby waives, to the fullest extent permitted by law, diligence in collecting the Secured Obligations, presentment, demand for payment, protest, all notices with respect to the Note and this Agreement which may be required by statute, rule of law or otherwise to preserve Secured Party's rights against Pledgor under this Agreement, including, but not limited to, notice of acceptance, notice of any amendment of the Loan Documents, notice of the occurrence of any default or Event of Default, notice of intent to accelerate, notice of acceleration, notice of dishonor, notice of foreclosure, notice of protest, and notice of the incurring by Debtor of any obligation or Secured Obligations. Pledgor also waives, to the fullest extent permitted by law, all rights to require Secured Party to (a) proceed against Debtor or any other guarantor of Debtor's payment or performance with respect to the Secured Obligations or any other obligation guaranteed under this Agreement (an "**Other Pledgor**"), (b) if Debtor or any Other Pledgor is a partnership, proceed against any general partner of Debtor or the Other Pledgor, (c) proceed against or exhaust any collateral held by Secured Party to secure the repayment of the Secured Obligations, or (d) pursue any other remedy it may now or hereafter have against Debtor, or, if Debtor is a partnership, any general partner of Debtor, including any and all benefits under applicable law.
- (ii) Pledgor understands that the exercise by Secured Party of certain rights and remedies contained in the Mortgage (such as a nonjudicial foreclosure sale) may affect or eliminate Pledgor's right of subrogation against Debtor and that Pledgor may therefore incur a partially or totally non-reimbursable liability under this Agreement. Nevertheless, Pledgor hereby authorizes and

empowers Secured Party to exercise, in its sole and absolute discretion, any right or remedy, or any combination thereof, which may then be available, since it is the intent and purpose of Pledgor that the obligations under this Agreement shall be absolute, independent and unconditional under any and all circumstances. Pledgor expressly waives any defense (which defense, if Pledgor had not given this waiver, Pledgor might otherwise have) to a judgment against Pledgor by reason of a nonjudicial foreclosure. Without limiting the generality of the foregoing, Pledgor hereby expressly waives any and all benefits under applicable law. Notwithstanding any foreclosure of the lien of the Mortgage, whether by the exercise of the power of sale contained in the Mortgage, by an action for judicial foreclosure or by Secured Party's acceptance of a deed in lieu of foreclosure, Pledgor shall remain bound under this Agreement.

- (iii) To the full extent permitted under applicable law, Pledgor also waives any right or defense based upon an election of remedies by Secured Party, even though such election (e.g., nonjudicial foreclosure with respect to any collateral held by Secured Party to secure repayment of the Secured Obligations) destroys or otherwise impairs the subrogation rights of Pledgor or the right of Pledgor (after payment of the obligations guaranteed by Pledgor under this Agreement) to proceed against Debtor for reimbursement, or both, by operation of applicable law or otherwise.
- (iv) To the full extent permitted under applicable law, Pledgor waives any and all other rights and defenses available which Pledgor may have by reason of protection afforded to Debtor with respect to any of the obligations of Pledgor under this Agreement pursuant to the antideficiency or other laws limiting or discharging Debtor's Secured Obligations.
- (v) To the full extent permitted under applicable law, Pledgor agrees to withhold the exercise of any and all subrogation and reimbursement rights against Debtor, against any other Person, and against any collateral or security for the Secured Obligations, including any such rights pursuant to applicable law, until the Secured Obligations has been indefeasibly paid and satisfied in full, all obligations owed to Secured Party under the Loan Documents have been fully performed, and Secured Party has released, transferred or disposed of all of its right, title and interest in such collateral or security. To the full extent permitted under applicable law, Pledgor makes the following waivers of specific rights afforded under applicable law:

"Pledgor waives all rights and defenses that Pledgor may have because the debtor's debt is secured by real property. This means, among other things:

- (1) The creditor may collect from Pledgor without first foreclosing on any real or personal property collateral pledged by the debtor.
- (2) If the creditor forecloses on any real property collateral pledged by the debtor:
 - (A) The amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.
 - (B) The creditor may collect from Pledgor even if the creditor, by foreclosing on the real property collateral, has destroyed any right Pledgor may have to collect from the debtor.

This is an unconditional and irrevocable waiver of any rights and defenses Pledgor may have because Debtor's debt is secured by real property."

24. **Miscellaneous.**

(a) **Attorneys' Fees.** Debtor shall pay promptly to Secured Party, without demand, actual reasonable attorneys' fees and all costs and other expenses paid or reasonably incurred by Secured Party in collecting or compromising any Secured Obligations or in enforcing or exercising its rights or remedies created by, connected with or provided in this Agreement, whether or not suit is filed.

(b) **Time of Essence.** Time is hereby declared to be of the essence of this Agreement and of every part hereof.

(c) **Statute of Limitations.** Debtor hereby waives all rights to plead or assert at any time any statute of limitations as a defense or bar to any action or proceeding brought to enforce this Agreement or any Secured Obligations.

(d) **Reinstatement of Rights.** Secured Party's rights hereunder shall be reinstated and revived, and the enforceability of this Agreement shall continue, with respect to any amount at any time paid on account of the Secured Obligations which thereafter shall be required to be restored or returned by Secured Party upon the bankruptcy, insolvency, or reorganization of Debtor, or any other person, all as though such amount had not been paid.

(e) **Entire Agreement.** The Loan Documents, including without limitation the Security Documents contain the entire understanding and agreement of the parties hereto with respect to the subject matter hereof and may not be altered or amended except by the written agreement of the parties hereto. No provision of this Agreement or right of Secured Party hereunder can be waived nor can Debtor be released from its obligations hereunder except by a writing duly executed by Secured Party.

(f) **Binding on Successors.** This Agreement shall remain in full force and effect until each of the Secured Obligations has been fully paid or performed and each of the provisions hereof shall inure to the benefit of and bind, as the case may be, the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

(g) **Severability.** Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions of this Agreement nevertheless shall be effective.

(h) **Terminology.** Where the context or construction requires, all words applied in the plural shall be deemed to have been used in the singular and vice versa, the neuter shall include the masculine and feminine. All terms used herein shall have the same meaning as in the provisions of the UCC.

(i) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) **Headings.** The headings of the several paragraphs hereof are included only for the convenience of reference and are not intended to govern, construe, or modify any provisions of the several paragraphs hereof.

(k) **Applicable Law; Venue**

- (i) This Agreement, the Loan Agreement the Note, the Mortgage, the Guaranty, and the other Loan Documents, and any other Loan Document which does not itself expressly identify the law which is to apply to it, shall be governed by (i) the laws of the state in which the Mortgaged Property is located (the "**Property Jurisdiction**") as to lien perfection, priority, and foreclosure, except as to the perfection, priority and foreclosure of Secured Party's interest in all personal property collateral, which is governed by Article 9 of the UCC in the jurisdiction in which personal property is located; and (ii) the laws of the Governing Jurisdiction (as defined below) as to interpretation, enforcement, validity, construction, effect and in all other respects. Notwithstanding the foregoing, federal law may preempt the application of state law and nothing in this section K is intended to limit such preemption
- (ii) Borrower and Lender agree that (i) the Loan Documents were accepted by Lender in the state in which Lender's home office is located (i.e., **California**) (without regard to conflicts of laws principles) (the "**Governing Jurisdiction**"), (ii) the proceeds of the Note were disbursed from the Governing Jurisdiction, and (iii) the Governing Jurisdiction has a substantial relationship to the parties and to the underlying transaction embodied by the Loan Documents. Accordingly, in all respects, including, without limiting the generality of the foregoing, matters of construction, validity, enforceability and performance, this Agreement, the Loan Agreement, the Note, the Mortgage, the Guaranty, and the other Loan Documents and the obligations arising hereunder and thereunder shall be governed by, and construed in accordance with, the laws of the Governing Jurisdiction applicable to contracts made and performed in such state and any applicable law of the United States of America, except that at all times the provisions for the enforcement of Lender's judicial and/or non-judicial (as applicable) rights and remedies granted under the Mortgage securing the Note and the creation, perfection and enforcement of the security interests created pursuant thereto and pursuant to the other Loan Documents shall be governed by and construed according to the laws of the Property Jurisdiction. Except as provided in the immediately preceding sentence, Borrower hereby unconditionally and irrevocably waives, to the fullest extent

permitted by law, any claim to assert that the law of any jurisdiction other than the Governing Jurisdiction governs this Agreement, the Loan Agreement, the Note, the Mortgage, the Guaranty, and the other Loan Documents.

- (iii) Borrower agrees that the state and federal courts and authorities with jurisdiction in the Property Jurisdiction and the Governing Jurisdiction, as applicable, will have jurisdiction over all controversies that may arise under or in relation to the Note, any security for the Indebtedness or any other Loan Document to the full extent set forth in this section K. Borrower irrevocably consents to service, jurisdiction and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing in section K is intended to limit Lender's right to bring any suit, action or proceeding relating to matters under this Agreement, the Loan Agreement, the Note, the Mortgage, the Guaranty or any other Loan Document in any court of any other jurisdiction.

(l) **Interpretation.** Each of the parties hereto hereby acknowledges that it has been represented by independent counsel of its own choice throughout all negotiations which have preceded the execution of this Agreement and that it has executed same with the consent and upon the advice of said independent counsel. Each party and their counsel have cooperated in the drafting and preparation of this Agreement; it shall be deemed their joint work product and may not be construed against any party by reason of its preparation. Each of the parties hereto acknowledges that no other party, or agent or attorney of any other party, has made any promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce the other party to execute this instrument, and each party hereto acknowledges that it has not executed this instrument in reliance upon any such promise, representation, or warranty not contained herein.

(m) **Release of Pledged Collateral.** Following the irrevocable payment in full of all the Secured Obligations, Debtor shall be entitled to the return of all of the Pledged Collateral which has not been used or applied toward the payment of the Secured Obligations in accordance with this Agreement. Secured Party shall sign (or cause to be signed) any and all documents, letters, terminations, instruments, certificates and agreements, and shall perform (or cause to be performed) all such acts as may be reasonably required in order to release the Pledged Collateral from the Pledge and Assignment hereunder.

SIGNATURE(S) ON FOLLOWING PAGE(S)

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date set forth below.

DEBTOR:

LLC BORROWER,
a California limited liability company

By: _____
JOHN TEST,
Manager

PLEDGOR:

JOHN TEST

SIGNATURE(S) CONTINUED ON FOLLOWING PAGE(S)

SAMPLE

SECURED PARTY:

**LOANDOC SOLUTIONS,
a California corporation**

By: _____
Name: _____
Title: _____

SAMPLE

EXHIBIT "A"
PLEDGED MEMBERSHIP INTERESTS LLC BORROWER

Name of Pledgor	Class of Interest	% of Total Membership Interests
JOHN TEST	Membership Interest	100%
Total of Pledgor Membership/Partnership Percentages:		100.0000%

SAMPLE

EXHIBIT "B"
PLEDGE ADDENDUM

This Pledge Addendum (as amended or otherwise modified) dated as of **December 15, 2023** is delivered to Secured Party by Pledgor pursuant to that certain Pledge and Assignment Agreement Membership Interests dated as of **December 15, 2023** (the "**Agreement**") to which this Pledge Addendum is attached. All terms not specifically defined herein below shall have the meanings given to such terms as set forth in the Loan Documents (including, without limitation, the Agreement).

Each Pledgor hereby sell, assign and transfer to Secured Party all of each of Pledgor's Pledged Equity Interests those certain uncertificated equity ownership interests in and to **LLC BORROWER, a California limited liability company ("Debtor")**, standing in the name of each Pledgor on the books of Debtor. Pledgor does hereby irrevocably transfer the Pledged Equity Interests in Debtor with full power of substitution in the premises.

Each Pledgor hereby further shall (a) deliver to Secured Party all Pledged Equity Interests, together with all related Additional Interests therein, in Debtor in order to perfect Secured Party's security interest in said Pledged Equity Interests; (b) absolutely, without notice, conditions or requirements, pledge, convey, hypothecate, mortgage, assign, set over, deliver and grant to Secured Party, a security interest in the Pledged Equity Interest as set forth in **Exhibit "A"**, together with all Additional Interests, all on the terms and conditions set forth in the Agreement, which terms and conditions are hereby incorporated herein by reference; (c) agree that this Pledge Addendum may be attached to the Agreement; and (d) agree that the Pledged Equity Interests and the Additional Interests listed on this Pledge Addendum shall be deemed to be a part of the Pledged Collateral under the Agreement and shall secure all Secured Obligations referred to in the Agreement.

Each Pledgor hereby certifies that the representations and warranties in the Agreement are and continue to be true and correct, both as to the Pledged Collateral pledged prior to this Pledge Addendum and as to the Pledged Collateral pledged pursuant to this Pledge Addendum. Each Pledgor further agrees that **Exhibit "A"** of the Agreement shall be deemed amended to include the Pledged Equity Interests listed on this Pledge Addendum. Each Pledgor acknowledges that any Pledged Equity Interests issued by Debtor owned by Pledgor not included in the Pledged Collateral at the discretion of Secured Party may not otherwise be pledged by Pledgor to any other Person or otherwise used as security for any obligations other than the Secured Obligations.

Finally, each Pledgor agrees that: (x) Secured Party may have all rights and remedies provided in the Agreement, including without limitation the right to affect a private sale of the Pledged Equity Interests at any sale made pursuant to the UCC, and in affecting such private sale, and each said Pledgor waives for itself or its assigns, to the extent it is legally able to do so, any requirement (statutory or otherwise) of advertisement (general or limited) or public announcement as to the time and place of the sale of the Pledged Equity Interests by Secured Party; (y) at any sale made pursuant to the Agreement and this Pledge Addendum, Secured Party may bid for or purchase, free from any right of redemption on the part of Pledgor (all said rights being also waived and released), all or any portion of Pledged Equity Interests offered for sale and may make payment on account thereof by using any outstanding balance of the Note as a credit against the purchase price; and (z) Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such Pledged Equity Interests without further accountability. However, notwithstanding any of the foregoing, nothing in the Agreement or this Pledge Addendum shall be construed as a requirement of Secured Party to sell, or attempt to sell, the Ownership Interests upon an Event of Default.

SIGNATURE(S) CONTINUED ON FOLLOWING PAGE(S)

DEBTOR:

LLC BORROWER,
a California limited liability company

By: _____
JOHN TEST,
Manager

PLEDGOR:

JOHN TEST

SAMPLE

EXHIBIT "C"
FORM OF ASSIGNMENT SEPARATE FROM CERTIFICATE
Membership Interests

This Assignment Separate From Certificate (the "**Assignment**") dated as of **December 15, 2023** is delivered to Secured Party by Pledgor pursuant to that certain Pledge and Assignment Agreement Membership Interests (the "**Agreement**") dated as of **December 15, 2023** (the "**Agreement**") to which this Assignment is attached. All terms not specifically defined hereinbelow shall have the meanings given to such terms as set forth in the Loan Documents (including, without limitation, the Agreement).

FOR VALUE RECEIVED, each of the undersigned (individually and collectively, as applicable, "**Pledgor**"), hereby and unconditionally sells, assigns, and transfers effective as of **December 15, 2023**, all of each Pledgor's Pledged Equity Interests in and to **LLC BORROWER, a California limited liability company ("Debtor")**, as indicated below, which Pledged Equity Interests are not represented by certificates recorded in the books of said Debtor:

Name of Pledgor	Class of Interest	No. of Units	% of Total Membership Interests
JOHN TEST	Membership Interest		100%
Total of Pledgor Membership/Partnership Percentages:			100.0000%

1. Each Pledgor represents and warrants that it is the sole owner of its respective Pledged Equity Interests and has the full authority to make the transfer without restriction by contract, law, or equity.
2. Each Pledgor irrevocably transfers its Pledged Equity Interests and directs Debtor to show on its books this Pledge and Assignment of all said Pledgor's Pledged Equity Interests to Secured Party, with full power of substitution in the premises.

SIGNATURE(S) CONTINUED ON FOLLOWING PAGE(S)

In witness hereof, the following person(s) have executed this Assignment Separate from Certificate to be attached as **Exhibit "C"** to the Agreement.

LLC BORROWER,
a California limited liability company

By: _____
JOHN TEST,
Manager

JOHN TEST

SAMPLE

EXHIBIT "D"
FORM AMENDMENT TO ORGANIZATIONAL DOCUMENTS

Amendment to Operating Agreement

This Amendment to Operating Agreement (the "**Amendment**"), dated as of the **December 15, 2023**, is delivered to Secured Party by Debtor pursuant to that certain Pledge and Assignment Agreement Membership Interests (the "**Agreement**") dated as of **December 15, 2023** (the "**Agreement**") to which this form of Amendment is attached. All terms not specifically defined hereinbelow shall have the meanings given to such terms as set forth in the Loan Documents (including, without limitation, the Agreement).

Effective from and after this **December 15, 2023** (the "**Effective Date**"), the undersigned (collectively the "**Owners**"), constituting the holders of 100% of the equity ownership interests in and to **LLC BORROWER, a California limited liability company** (the "**Debtor**"), shall, upon the vote of 100% of the Owners, hereby amend Debtor's Operating Agreement (collectively, the "**Organizational Documents**") as follows:

Upon the vote of 100% of the Owners, the Owners of **LLC BORROWER, a California limited liability company** ("**Debtor**"), together with its Manager(s) of Debtor (collectively referred to as "**Control Parties**") hereby are:

- (a) Authorized to cause Debtor to have the Control Parties take all actions necessary to facilitate entering into that certain loan in the original principal amount of **ONE MILLION AND 00/100 DOLLARS (US \$1,000,000.00)** (the "**Loan**") by **LOANDOC SOLUTIONS, a California corporation** (the "**Secured Party**") to and for the account of Debtor;
- (b) Authorized, in connection with Debtor entering into the Loan, to permit any or all of the Control Parties, as approved by the Owners pursuant to the terms of the Organizational Documents, to execute any and all documents evidencing, relating to, and/or securing obligations as required by Secured Party, in its sole discretion, for the Loan (collectively, the "**Loan Documents**");
- (c) Authorized to require the Owners and Debtor to abide by the following restrictions and/or requirements until the Loan has been paid in full to Secured Party (or any future holder of the Loan):
 - (a) The Control Parties at the time of the making of the Loan shall remain responsible for management of Debtor and shall not be replaced without Secured Party's prior approval in its reasonable discretion;
 - (b) The Owners shall not agree to transfer, sell, encumber, gift, or otherwise dispose of the assets of Debtor, except in the ordinary course of its business, without the prior written consent of Secured Party in its sole discretion;
 - (c) The provisions in the Organizational Documents, as restricted in the Loan Documents, relating to transfers of ownership interests, particularly in the event of death of an individual, or divorce of a couple owning a common interest, or the bankruptcy of any individual, shall not be amended, altered or replaced without the prior written consent of Secured Party in its reasonable discretion;
 - (d) The Organizational Documents are subject to all requirements and restrictions set forth in the Loan Documents, noting particularly that any provisions for transfer of ownership interests are subject to, and may be limited by, provisions of the Loan Documents;
 - (e) Each Owner shall not to allow its interest in Debtor to become subject to any liens from any third parties (other than any liens created in favor of Secured Party as collateral for the Loan), and if an Owner's interest is involuntarily lien, such lien will be discharged within 30 days (or promptly discharged);
 - (f) All payments under the Loan shall have priority over distributions to the Owners, which such distributions shall, in all ways, be subordinate and subject to the terms and conditions of the Loan Documents.
 - (g) The Organizational Documents, at all times, shall be kept current as to the name, address, telephone number and percentage of ownership interests of each Owner, and Debtor shall

provide prompt written notice to Secured Party of any change in address or telephone numbers for any Owner(s);

- (h) Each of the Control Parties and all Owners, if required, shall promptly respond to requests for information from Secured Party and shall promptly make themselves available for execution of any documents required by Secured Party in connection with the Loan;
- (i) Neither Debtor, nor its Organizational Documents, shall be terminated or permitted enter a new business without Secured Party's prior written consent in its sole discretion;
- (j) Any rights of first refusal with respect to or options to purchase any ownership interest in Debtor and/or all or any portion of the "**Collateral**" (as defined in the Loan Documents) must be subordinate to the lien of the Loan Documents; and
- (k) The Owners fully subordinate all rights and remedies, including rights of indemnity, contribution, or otherwise, to the lien of the Loan Documents and all other terms and provisions of said Loan Documents. At all times while the Loan is outstanding, the Owners shall stand still with respect to the enforcement of any such rights and remedies and shall take no enforcement action with respect thereto.

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