

ILLUSTRATIVE FORM OF [LOAN CLOSING] OPINION

[Closing Date]

[Name of Addressee]

Re: [Describe the [financing] transaction (the "Loan")]

Ladies and Gentlemen:

We have acted as [local] counsel to \_\_\_\_\_, a South Carolina [corporation][limited liability company] (the "Borrower") [and as [\_\_\_\_\_] counsel to \_\_\_\_\_, a South Carolina [corporation][limited liability company], as guarantor (the "Guarantor")], in connection with the [Loan] made by \_\_\_\_\_ as lender (the "Lender").

DOCUMENTS REVIEWED

In connection with delivering this opinion, we have reviewed the following documents, all dated of even date herewith [unless otherwise noted]:

1. The [Loan][Credit] Agreement between the Borrower and the Lender (the "Loan Agreement");
2. The Promissory Note made by the Borrower to the Lender in the original principal amount of \$ \_\_\_\_\_ (the "Note");
3. The Mortgage and Security Agreement by the Borrower to the Lender (the "Mortgage");
4. The Assignment of Leases and Rents made by the Borrower to the Lender (the "Assignment of Leases");
5. The Security Agreement made by [and between] the Borrower to the Lender (the "Security Agreement");
6. [The Guaranty executed and delivered by the Guarantor to the Lender (the "Guaranty");] and
7. [List any other material transaction documents].

The Loan Agreement, Note, Mortgage, Assignment of Leases, Security Agreement, and [list any other material borrower documents] are collectively referred to herein as the "[Loan] Documents." [The Guaranty and [list any other guarantor documents] are referred to herein as the "Guaranty Documents." The Loan Documents and the Guaranty Documents are collectively referred to herein as the "Transaction Documents."]

[For personal property secured transactions subject to the UCC:] [We have also reviewed the UCC-1 Financing Statement (the "Financing Statement") naming the Borrower as debtor and the Lender as secured party [filed][to be filed] in the South Carolina Secretary of State's Office (the "State Filing Office") [and the UCC-1 Financing Statement naming the Borrower as debtor and the Lender as secured party [filed][to be filed] as a fixture filing (the "Fixture Filing," and together with the Financing Statement, the "Financing Statements") in the

\_\_\_\_\_ County (the “County”) [RMC][Register of Deeds][Clerk of Court] Office (the “County Recording Office”).]

We have examined and relied upon (1) the Borrower’s Articles of [Incorporation][Organization] filed with the South Carolina Secretary of State on \_\_\_\_\_ [, as amended by \_\_\_\_\_] (the “Articles”); (2) the [Bylaws][Operating Agreement] of the Borrower [adopted as of \_\_\_\_\_] (collectively with the Articles, the “Organizational Documents”); (3) the [authorizing resolutions][unanimous written consent] of the [board of directors][shareholders] of the Borrower as of \_\_\_\_\_; (4) the Certificate of Existence of the Borrower issued by the South Carolina Secretary of State dated \_\_\_\_\_ (the “Certificate of Existence”); (5) [the Certificate of Tax Compliance issued by the South Carolina Department of Revenue dated \_\_\_\_\_ (the “Tax Compliance Certificate”);] and (6) [an officer’s/secretary’s certificate dated as of \_\_\_\_\_]. [We have also relied on such other documents, records, and certificates of public officials, as we have deemed necessary or advisable for the purposes of this opinion.]

*[Include relevant organizational and authority documents for any guarantors, if applicable.]*

As to certain matters of fact, we have relied upon statements and representations of the [officers, directors, managers, members,] and other representatives of the Borrower, [of the Guarantor] and of other public officials and agencies, which have not been independently established, verified or confirmed by us. In addition, as to certain matters of fact, we have relied upon the representations and warranties of the Borrower in the Loan Documents, [of the Guarantor in the Guaranty Documents,] and various other certificates, which have not been independently established, verified or confirmed by us.

[Whenever the phrase "to our knowledge" is used herein, it refers to the actual, personal knowledge of the attorneys of this firm involved in the representation of the Borrower [and the Guarantor] in this transaction.] [For purposes of this opinion, except for the documents specifically referenced herein as being reviewed by us, we have not made an independent review of any other agreements, contracts, instruments, writs, orders, judgments, or decrees which may have been executed by or which may now be binding upon the Borrower or Guarantor or which may affect the property of the Borrower or Guarantor, nor have we undertaken to review any other files of the Borrower or Guarantor or to discuss any other matters with the Borrower or Guarantor.] [Further, because we have not undertaken any investigation to determine the existence of other documents or facts, unless expressly so stated herein, no inference as to any knowledge thereof should be implied from the fact of our representation of any party or otherwise.]

#### COVERAGE

The opinions set forth herein are limited to matters governed by the laws of the State of South Carolina (sometimes referred to herein as the “State”), and no opinion is expressed herein as to the laws of any other jurisdiction, [including, without limitation, \_\_\_\_]. [The opinions set forth herein assume that the laws of the State would govern, notwithstanding any choice of law provision to the contrary, but no opinions are given regarding or with respect to any choice of law provision.] All references herein to the “Code” shall mean the Code of Laws of South Carolina, 1976, as amended. All references to the “UCC” shall mean Title 36 of the Code, known as the

Uniform Commercial Code in effect in the State as of the date hereof [, notwithstanding any provision of the Transaction Documents to the contrary.]

ASSUMPTIONS

In rendering the opinions set forth herein, we have assumed, without independent verification, among other things:

*[List of Standard General Assumptions] [Consider if implied or necessary]*

Each natural person executing any document is legally competent to do so;

All signatures on any of the documents reviewed by us are genuine;

All documents submitted to us as originals are authentic, all documents submitted to us as certified or photostatic copies conform to the original document, and all public records reviewed are accurate and complete;

All documents fully state the agreement between the parties with respect thereto and have not been amended, modified or supplemented, and there are no other agreements, understandings or course of dealing by or between the parties that would modify, amend, supplement, terminate or rescind the agreements therein;

The accuracy and completeness of all recitals, representations, warranties, descriptions of collateral, schedules and exhibits contained in the documents;

With respect to the [Lender][*other parties*], that (a) the [Lender] is validly existing [and in good standing] under the laws of all applicable jurisdictions; (b) the Transaction Documents to which the [Lender] is a party have been duly authorized, executed and delivered by the Lender, are within its corporate power, and are its legal, valid and binding obligations, enforceable against it; and (c) the [Lender] is in compliance with all applicable laws, rules and regulations governing the conduct of its business with respect to this transaction;

[All conditions to the closing required by the Lender have been met to the satisfaction of the Lender or the time for performance has been extended or otherwise waived by the Lender;]

The Loan is made for a commercial or business purpose and is not for any personal, family, household or other consumer purpose or subject to any consumer transaction or consumer protection laws;

There is no fraud, undue influence, duress, mutual mistake of fact, illegal or criminal activity (including, without limitation, the unauthorized practice of law) in connection with the execution and delivery of the Transaction Documents by any of the parties thereto or in connection with the closing of the transactions contemplated thereby;

[The parties to the Transaction Documents (a) will act in good faith and in a commercially reasonable manner in the exercise of any rights or enforcement of any remedies under the Transaction Documents; (b) will not engage in any conduct in the exercise of such rights or enforcement of such remedies that would constitute unfair dealing, commercially unreasonable or unconscionable conduct or result in a breach of the peace; and (c) will comply with all requirements of applicable procedural and substantive law in exercising any rights or enforcing any remedies under the Transaction Documents;]

With respect to the opinion expressed in paragraph [1], we have relied solely on the Certificate of Existence and have assumed that since the date of the issuance of the Certificate of Existence, no action has been taken to administratively dissolve the Borrower. *[Include assumption for Guarantor organizations, if applicable.]*

[The Guarantor's entering into the Guaranty is necessary or convenient to carry out its business and affairs and furthers the corporate purposes of the Guarantor;]

[The Guarantor receives a tangible benefit from the Loan to the Borrower;]

*[List of Certain Real Property and UCC Related Assumptions]*

[The Borrower has title to the real property and related real property interests encumbered by the Mortgage;]

[The Borrower has sufficient rights (as described in Section 9-203 of the UCC) in each item of personal property comprising the [Collateral] in which a security interest is purported to be granted under the [Transaction Documents] and all real property and improvements and other collateral to be mortgaged, assigned, or pledged by Borrower under the Loan Documents is located in the County within the State];

[The Lender has given "value" (as defined in Section 1-201(44) of the UCC);]

[The names of the parties within the Transaction Documents are complete and correct, the addresses of all parties are complete and accurate, and the description of the [Property] is accurate.]

*[List of Certain Property Related Assumptions for Local Counsel Opinions]*

[The Mortgage, Assignment of Leases and Financing Statements will be duly filed, indexed and recorded among the appropriate official records, with all fees, charges and taxes having been paid];

[All legal descriptions, schedules and exhibits have been properly prepared and attached to the appropriate documents as applicable, including, without limitation, legal descriptions, derivation clauses and tax map numbers of the land, as described and set forth in the Mortgages and more particularly in each respective Exhibit A thereto, as well as other descriptions of collateral within the Loan Documents];

( ) [All Loan Documents that will be recorded shall be or have been properly witnessed by the witnesses thereto and properly acknowledged by a valid notary of the state in which each Loan Document is executed;]

( ) [*List any other express assumptions that may be necessary for the particular transaction and opinions being rendered.*]

#### OPINION

Based on and subject to the foregoing and such other qualifications, exceptions, limitations and assumptions set forth herein, it is our opinion that:

1. [Based on the Certificate of Existence] the Borrower is validly existing as a [corporation][limited liability company] under the laws of the State as of such date.

2. The Borrower has the [corporate] [limited liability company] power to execute and deliver the Loan Documents and to consummate the transactions contemplated thereby.

3. The execution, delivery and performance of the Loan Documents by the Borrower and the consummation by the Borrower of the transactions contemplated thereby have been duly authorized by the Borrower.

4. The Loan Documents have been duly executed and delivered by the Borrower.

5. The Loan Documents constitute the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with their terms.

6. The execution and delivery of the Loan Documents by the Borrower and consummation by the Borrower of the transactions contemplated thereby do not (a) violate the Borrower's Organizational Documents [or (b) violate any statutory law or regulations of the State applicable to the Borrower in connection with the transaction] [or (c) to our knowledge, violate any "Court Order" to which the Borrower is named as a party] [or (d) constitute a default under any "Other Material Contracts" to which the Borrower is a party (excluding therefrom any financial covenants and similar provisions that require financial calculations and determinations).] [*Include the relevant definitions for the specific court orders and other contracts, if applicable.*]

*[Add similar opinions for the Guarantor to the extent applicable.]*

7. The interest to be charged in connection with the Loan, as stated in the Loan Documents, is not usurious under the laws of the State [assuming that no fees, charges or other amounts will be paid directly or indirectly to the Lender or for its benefit, except as specified in the Loan Documents].

8. [Except for recording of the Mortgage in the County Recording Office, filing the Financing Statements with the appropriate Filing Office,] [filings with the [Secretary of State] with respect to the Organizational Documents,] [and such other filings, consents or approvals as

are specifically contemplated by the Transaction Documents,] no consents or approvals of, and no filings with, any governmental authority of the State are necessary for the execution and delivery of the Loan Documents by the Borrower and the consummation of the transactions contemplated thereby by the Borrower.]

*[Real Estate Mortgage and Fixture Filing Opinions]*

9. [The Mortgage is in appropriate form for recordation in the County Recording Office.] The Mortgage is [in a form] sufficient to create a valid lien on the portion of the property encumbered thereby which consists of real property interests under State law, located in the County where the Mortgage is being filed.

10. The Mortgage is in form sufficient to create a security interest in the “fixtures” [(as such term is defined in Section 9-102(a)(41) of the UCC and under State law)] that are located on the real property encumbered by the Mortgage.

11. [The Fixture Filing is in proper form for filing with the County Recording Office]. Upon the filing of [the Mortgage] [and the Fixture Filing] in the County Recording Office, the security interests created by the Mortgage in the fixtures on the real property located in the County will be perfected under State law.

12. [No intangible tax, documentary stamp tax, mortgage, transfer or recording tax is required to be paid by the Borrower to any governmental agency of the State on account of the execution and delivery of the Mortgage or the creation of the indebtedness secured by the Mortgage in the State, except for nominal filing or recording fees.]

*[UCC Personal Property Opinions]*

13. The Security Agreement is in form sufficient to create a security interest in those items and types of personal property described therein to the extent a security interest in such property may be created under Article 9 of the UCC.

14. The Financing Statement is in proper form for filing with the State Filing Office. Upon the filing of the Financing Statement in the State Filing Office, the security interests created by the Security Agreement will be perfected in the property described in the Security Agreement to the extent that (a) such property is described in the Financing Statement and consists of the items and types of property subject to Article 9 of the UCC, and (b) a security interest in such property can be perfected by filing a financing statement in the State under the UCC (the “UCC Filing Collateral”).

QUALIFICATIONS

The foregoing opinions are further limited by the following assumptions, limitations and qualifications:

A. Enforceability of the Transaction Documents is subject to, and the rights of the parties under the Transaction Documents may be limited by, bankruptcy, insolvency, fraudulent

conveyances, equitable subordination, reorganization, moratorium or other similar laws or governmental authority relating to or affecting creditor's rights or the collection of debtor's obligations generally.

B. Enforceability of the Transaction Documents is subject to, and the rights of the parties under the Transaction Documents may be limited by, general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith, fair dealing, the availability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or law. Enforcement of the Transaction Documents may also be subject to the discretion of the court before which any proceeding may be brought.

*[Additional Possible Qualifications and Exceptions]*

\_\_\_\_. We express no opinion as to any tax, insolvency, consumer, privacy, labor and employment, pension and employee benefit, anti-terrorism, criminal, anti-trust, anti-tying, unfair trade practices and competition, intellectual property, letter of credit, securities or "blue sky" laws, rules or regulations of any jurisdiction or laws, rules or regulations governing and regulating financial or lending institutions. [We express no opinion as to compliance by any parties to the transaction with respect to any fiduciary duty or any regulatory requirements applicable to the subject transactions because of the nature of their business.]

\_\_\_\_. We express no opinion regarding the effectiveness of any provision in the Transaction Documents whereby the Borrower [or the Guarantor] waives procedural, substantive, statutory or constitutional rights.

*[Alternative:]* We express no opinion regarding the effectiveness of any provision in the Transaction Documents whereby the Borrower [or the Guarantor] waives procedural, substantive, or constitutional rights, including, without limitation: (i) the waiver of the right of statutory or equitable redemption; (ii) the waiver of or limitations on damages, including liquidated, incidental, consequential, punitive and special damages; (iii) waivers of unmatured rights; (iv) the waiver of rights to notice; (v) releases or waivers of other legal or equitable rights; (vi) waivers of or limitations on rights to bring claims and counterclaims; (vii) waivers of or limitations on statutes of limitations or repose; (viii) the waiver of trial by jury; (ix) the waiver or other avoidance of the merger doctrine; (x) waivers or discharges of defenses; (xi) the waiver of an accounting for rent or sale proceeds; (xii) the waiver of set-off; (xiii) waivers subject to Section 9-602 of the UCC; (xiv) waiver of appraisal rights in foreclosure or otherwise and rights to a deficiency judgment when such appraisal rights are applicable.

\_\_\_\_. We express no opinion as to the enforceability of any provision that states delay or omission of enforcement of rights and remedies will not constitute a waiver of such right or remedy to the extent that any such delay or omission is deemed a waiver of any right based on a course of dealing or course of performance by the parties.

\_\_\_\_. We express no opinion regarding the enforceability of any provisions relating to disclaimers, indemnities or other liability assumptions or limitations with respect to governmental entities and State agencies, third parties or one's own [gross] negligence, recklessness, or willful or unlawful misconduct.

\_\_\_\_. We express no opinion regarding the enforceability of any provisions relating to (i) rights to attorneys' fees (which may be subject to the discretion of the court); (ii) [the right to cure defaults with third parties;] (iii) [confidentiality agreements;] (iv) [covenants not to compete;] (v) [the consent to service of process in any particular manner;] (vi) [subrogation rights;] (vii) [submission to jurisdiction and venue;] (viii) [submission to arbitration or mediation;] and (ix) the exercise of self-help remedies; [and (x) choice of law.]

\_\_\_\_. We express no opinion as to any grant of a power of attorney in any Transaction Document or any provision that appoints the Lender or other parties as agent or attorney-in-fact or any provisions regarding future requirements to execute additional documentation not contemplated at the time of closing. [We further express no opinion as to any changes made to the Transaction Documents after the documents were executed and delivered or the effect of such changes to the enforceability of those documents.]

\_\_\_\_. We express no opinion as to the enforceability of any provision whereby the Lender reserves the right to charge "default interest" or a higher rate of interest after default than the interest that would otherwise accrue under the Transaction Documents, or any other charge or fee, including any yield maintenance or capital adequacy provision or any other provision whereby the Lender reserves the right to charge a tax, premium or fee, however calculated, which would be deemed a penalty. Furthermore, we express no opinion as to the enforceability of any prepayment premium or fee triggered by condemnation, acceleration or events beyond a party's control.

\_\_\_\_. We express no opinion as to the right of the Lender to accelerate the due date of any indebtedness without notice or other overt action by the Lender or upon the occurrence of an immaterial breach (including a material breach of a non-material provision thereof) of any of the Transaction Documents or upon any filing under any applicable bankruptcy code [or solely in the event the Lender deems itself insecure or believes that its prospects for repayment are impaired.] Furthermore, we express no opinion on provisions to the effect that the acceptance by the Lender of past due installments or other performance by the Borrower [or the Guarantor] shall not be deemed a waiver of the Lender's right to accelerate the indebtedness.

\_\_\_\_. We express no opinion as to the enforceability of any provision of a guaranty providing for continued liability against the estate of a deceased or incompetent guarantor or obligor to the extent of advances made on the Loan after notice of a guarantor's death or incompetency.

\_\_\_\_. We express no opinion as to the enforceability of any provision contained in the Transaction Documents which purports to prohibit oral agreements or amendments or provisions that otherwise limit the effect of a course of dealing or performance between the parties.

\_\_\_\_. We express no opinion as to any other document which may be referred to or otherwise incorporated by reference into any Transaction Document. Furthermore, we express no opinion as to the enforceability of any provision relating to the construction of the documents to the extent such documents contain provisions that may be inconsistent.

\_\_\_\_. We express no opinion as to the enforceability of any provisions that relate to severability where less than all of the contract may be unenforceable, to the extent that the unenforceable portion is an essential part of the agreed exchange, or to the extent that a court or other adjudication panel will not re-write the document to exclude the unenforceable provision.

\_\_\_\_. We express no opinion as to whether representations can survive or be continuing.

\_\_\_\_. We express no opinion as to whether any document is an instrument under seal.

\_\_\_\_. We express no opinion regarding title to, the location of, or the priority of any security interest or lien in, on or against any property (whether real or personal, tangible or intangible).

*[Certain Real Estate Mortgage Related Exceptions]*

\_\_\_\_. [As to matters of title to real property, it is our understanding that you are relying on the title insurance policy to be issued in connection with the Loan (the "Title Policy") and all matters contained therein, including, without limitation, the priority of the Mortgage, and] we express no opinion as to matters of title or priority of any lien on real property. With respect to the location of the land and the legal description, it is our understanding that you are relying on the Title Policy and survey] prepared in connection with the Loan, and we express no opinion with respect to the location of such land.

\_\_\_\_. We express no opinion as to whether any items of personal property are incorporated in or made a part of the real estate under the Mortgage. Whether any item of personal property constitutes a fixture or real property is a factual determination under certain rules of law and cannot be arbitrarily controlled by the intent of the parties.

\_\_\_\_. We express no opinion as to the creation or validity of any lien against after-acquired real property.

\_\_\_\_. [We express no opinion as to any future advances in excess of the maximum principal amount stated in the Mortgage, plus interest thereon, attorneys' fees and court costs, as provided in Section 29-3-50 of the Code, [and the indebtedness secured by the Mortgage may be limited to such stated amount,] notwithstanding any provision to the contrary.]

\_\_\_\_. [With respect to the Mortgage, we express no opinion as to the effect of any failure to include that the interest on the secured indebtedness may be deferred, accrued or capitalized.]

\_\_\_\_. In the State, mortgaged real property may be sold only pursuant to judicial foreclosure proceedings. Further, the right to possession is by statute vested in the mortgagor until the completion of the foreclosure sale. Therefore, any provisions concerning a secured party's rights to enter into possession of, operate, control or sell real property, either directly or through a receiver not appointed by a court and without the institution of judicial foreclosure proceedings, will be unenforceable. Rights of a mortgagee to enter into possession of the real property, to take control of and operate or sell real property, either directly or through a receiver, without benefit of judicial proceeding are not recognized in the State. A mortgagee may obtain

the services of a receiver to manage such property only by court appointment of the receiver. In the State, the appointment of a receiver is generally discretionary with the court. Therefore, we express no opinion as to the enforceability of the remedies set forth in the Mortgage, Assignment of Leases or any other Loan Documents which are contrary to the provisions of the Code or the statutory requirements for appointment of a receiver, the collection of rents, and judicial foreclosure under State law. We express no opinion as to whether or not the Lender may be deemed a mortgagee-in-possession under certain circumstances.

\_\_\_\_. Notwithstanding anything to the contrary in the Loan Documents, the Lender may be forced to initiate legal proceedings to effectuate its remedies. In addition, all remedies may be limited or modified by the doctrine of election of remedies.

\_\_\_\_. We express no opinion as to whether the Assignment of Leases or any assignment of leases and rents contained in the Mortgage which permits the Borrower to collect rents and profits from the land described therein until the occurrence of an event of default is a present and absolute assignment.

\_\_\_\_. Rights to condemnation proceeds and notices of condemnation proceedings are governed by the South Carolina Eminent Domain Procedure Act, and we express no opinion as to any provision contrary to such laws.

\_\_\_\_. We express no opinion as to any provision in the Mortgage or any other document that requires any party to purchase casualty insurance on property in an amount in excess of the replacement cost of the buildings and appurtenances on the land. [Furthermore, we have not examined, and express no opinion as to the assignability of, policies of insurance required by the Mortgage.]

\_\_\_\_. We express no opinion as to the condition or previous, present or future use of any property. Furthermore, we express no opinion as to the effect of or compliance with any federal, state or local law, rule or regulation relating to environment, health and safety, building and construction, [archaeology,] [historic preservation,] land use, land sales, [landlord-tenant relationships,] [horizontal property regimes,] [vacation time sharing,] [fair housing,] [property management,] [loan and mortgage brokers,] subdivision and zoning.

*[Certain UCC Specific Qualifications]*

\_\_\_\_. We express no opinion as to the perfection of any security interest in or against any property, except as specifically set forth in opinion paragraph(s) \_\_\_\_ above with respect to perfection of the UCC Financing Collateral by recording the Mortgage and Fixture Filing in the County Recording Office and filing the Financing Statement in the State Filing Office. Without limiting the foregoing, we express no opinion as to any security interest in any collateral (a) which is perfected upon attachment pursuant to Section 9-309 of the UCC; [(b) which is perfected by possession or delivery under Section 9-313 of the UCC;] [(c) which is perfected by control under Section 9-314 of the UCC;] [(d) which requires filing in the jurisdiction of [the debtor's location] [the location of the goods as provided in Section 9-301 of the UCC] for perfection;] or (d) which is not subject to Article 9 of the UCC. [*Optional Additional Language:*] Without limiting the foregoing, we express no opinion as to the perfection of [or

creation of] any security interest in collateral consisting of: (i) [trademarks, service marks, copyrights, patents or other intellectual property;] (ii) [timber, oil, gas, minerals or other natural resources;] (iii) [consumer goods;] (iv) [vehicles, airplanes, boats, vessels, or goods that are subject to a certificate of title;] (v) [money, cash or cash equivalents;] (vi) [tax refunds;] (vii) [insurance or condemnation proceeds;] (viii) [instruments;] (ix) [letter-of-credit rights;] (x) [electronic] [chattel paper;] (xi) [documents or goods covered by documents;] (xii) [commodity accounts and contracts;] [securities (certificated or uncertificated);] [securities accounts or security entitlements;] (xiii) [commercial tort claims;] (xiv) [deposit accounts;] (xv) [equipment or goods that do not constitute fixtures;] (xvi) [goods in possession of a bailee;] or (xvii) [proceeds to the extent that under certain circumstances described in Sections 9-315 and 9-322 of the UCC, the rights of a secured party to enforce a perfected security interest in proceeds of collateral may be limited.] [A security interest may be subject to competing interests of others, and under certain circumstances interests of others may take free of a security interest pursuant to the UCC.]

\_\_\_\_. [With respect to the Financing Statements, we note that: (i) the effectiveness of a financing statement under the UCC terminates five years after the filing unless a continuation statement is filed prior to such termination in accordance with Section 9-515 of the UCC, and (ii) Sections 9-507(c) and 9-508(b) of the UCC provide that if the debtor so changes its name, identity or corporate structure or a new debtor's name is so different that a filed financing statement becomes seriously misleading under Section 9-506 of the UCC, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change unless an appropriate amendment under Section 9-507(c)(2) of the UCC or a new initial financing statement under Section 9-508(b)(2) of the UCC, as the case may be, is filed before the expiration of that period. For purposes of this opinion, we have assumed that the Borrower will remain the debtor and will not change its name, identity, jurisdiction of business organization or corporate structure during the term of the Loan and that the collateral will remain subject to the jurisdiction of the State.]

\_\_\_\_. [With respect to the organizational identification number on the Financing Statement, we express no opinion as to the requirements of another jurisdiction for an organizational identification number of a debtor or the accuracy of any such number shown thereon.]

\_\_\_\_. [We express no opinion as to any provision which purports (i) to create, with no further action on the part of the Borrower, a lien arising in the future in favor of the Lender attaching to assets in which no security interest is granted by the Loan Documents, or (ii) to limit the rights of third parties who obtain legitimate liens on such assets.]

\_\_\_\_. Contrary to the provisions in the Transaction Documents regarding self-help remedies of the Lender, a secured party, upon default, has the right to proceed without judicial process to retake possession of secured personal property only if it can be done without breach of the peace in compliance with the requirements and remedies set forth under the UCC.

\_\_\_\_. We express no opinion as to the negotiability of the Note or other instrument based on the limitations set forth in Sections 3-104(a) and 3-106 of the UCC.

\_\_\_\_. The enforceability of the Transaction Documents may be limited by the rights of third parties to the extent that the consent of such third parties is necessary for the valid transfer of any collateral as security. Furthermore, we express no opinion as to any assignment of any lease, contract, warranty, permit or other document, including, without limitation, the assignment of any governmental permits, authorizations or approvals.

\_\_\_\_. We express no opinion as to the enforceability of provisions restricting assignments pursuant to the limitations and restrictions contained in Sections 9-406 through 9-409 of the UCC.

*[Generic Qualification/Miscellaneous]*

[Certain other provisions may be unenforceable, but such other provisions should not render the Transaction Documents invalid as a whole or preclude, subject to the economic consequences of any procedural delay which may result from such unenforceable provisions, (i) enforcement of the obligation to repay the principal and interest on the Loan through judicial means and (ii) judicial foreclosure of the Mortgage.] *[Alternative:]* [The enforceability of the Transaction Documents may be further limited in that certain other provisions may not be enforceable in accordance with their terms, but the inclusion of those other provisions, subject to the other qualifications and exceptions stated herein, should not materially interfere with the practical realization of the principal security intended to be provided thereby, except for the economic consequences of any procedural delay which may result from such unenforceable provisions and applicable law.]

The legal opinions expressed herein are an expression of professional judgment and not a guaranty of any result.

This legal opinion is delivered to you and is solely for your use in connection with the Loan. Without our prior written consent, this opinion may not be used or relied upon by any other person, firm or entity or quoted for any other purpose. This opinion is given as of the date hereof based upon existing facts and law and is subject to changes therein. We are under no obligation, and do not undertake any obligation to update or revise the opinions set forth herein for any reason including, without limitation, facts or laws subsequently becoming known to us which cause such opinions to be inaccurate or incomplete.

[Firm Name]