

as constituents any of the foregoing substances), which are or may be subject to regulation under, or the Release of which or exposure to which is prohibited, limited or regulated under any Environmental Law.

(2) "Enforcement Action" means any action, proceeding or investigation (administrative or judicial, civil or criminal) instituted or threatened by U.S. Environmental Protection Agency, or any other federal, state or local governmental agency (collectively "Governmental Authority") related to any alleged or actual violation of any Environmental Law with respect to the Property and/or any business conducted thereon, and/or the Borrower, including, but not limited to, actions seeking Remediation, the imposition or enforcement of liability pursuant to any Environmental Law and compliance with any Environmental Law. Enforcement Action shall also include any similar actual or threatened action by any private party pursuant to any Environmental Law.

(3) "Environmental Laws" means any and all present and future: federal, state, and local laws, statutes, ordinances, rules, and regulations, relating to protection of human health and the environment from Contaminants including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (CERCLA), 42 USC § 9601 *et seq.*; the Resource Conservation and Recovery Act, as amended, (RCRA), 42 USC § 6901 *et seq.*; the Clean Air Act, as amended, 42 USC § 7401 *et seq.*; the Federal Water Pollution Control Act, as amended (including but not limited to as amended by the Clean Water Act), 33 USC § 1251 *et seq.*; the Toxic Substances Control Act, as amended (TSCA), 15 USC § 2601 *et seq.*; the Emergency Planning and Community Right-to-Know Act (also known as SARA Title III), as amended, (EPCRA), 42 USC § 11001 *et seq.*; the Safe Drinking Water Act, as amended, 42 USC § 300(f) *et seq.*; the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), 7 USC § 136 *et seq.*; the Occupational Safety and Health Act, as amended, (OSHA), 29 USC § 651 *et seq.*; the Endangered Species Act, as amended, 16 USC § 1531 *et seq.*; the National Environmental Policy Act, as amended, (NEPA), 42 USC § 4321 *et seq.*; the Rivers and Harbors Act of 1899, 33 USC § 401 *et seq.*; state and local laws, rules and regulations similar to or addressing similar matters as the foregoing federal laws; laws, rules and regulations governing underground or above-ground storage tanks; laws, rules and regulations imposing liens for response costs or costs of other Remediation, whether or not those liens have a higher priority than existing liens; laws, rules and regulations conditioning transfer of property upon a form of negative declaration or other approval of a Governmental Authority of the environmental condition of a property; laws, rules and regulations requiring the disclosure of conditions relating to Contaminants in connection with transfer of title to or interest in property law; laws, rules and regulations requiring notifying of any governmental entity with regard to a Release of any Contaminant; conditions or requirements imposed in connection with any permits; government orders and demands and judicial orders pursuant to any of the foregoing; laws, rules and regulations relating to the Release, use, treatment, storage, disposal, transportation, transfer, generation, processing, production, refining, control, management, or handling of Contaminants; any and all other laws, rules, regulations, guidance, guidelines and common law of any governmental entity relating to the protection of human health or the environment from Contaminants.

(4) "Release" means any spilling, leaking, migrating, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of any Contaminant.

(5) "Remediation" means any response, remedial or removal action pursuant to CERCLA; any corrective action pursuant to RCRA; any other actions required, authorized or ordered under any Environmental Law with regard to cleanup, removal, response, detoxification or other remediation of any Contaminant; any actions to prevent, cure or mitigate a Release or threatened Release of any Contaminant; any action necessary or appropriate to comply with any Environmental Law; any action necessary or appropriate to obtain or comply with permits needed for operations in connection with the Property; including but not limited to: any investigation, monitoring, assessment, testing, sampling, laboratory or other analysis, or evaluation, relating to any such response, remedial, removal, corrective or other cleanup action or relating to any Release or threatened Release of any Contaminant; other actions ordered or otherwise required pursuant to any other provision of any other Environmental Law; any other response, remedial or removal action liability for which may be imposed pursuant to CERCLA § 107(a) (42 USC § 9607(a)) whether such liability is to a Governmental Authority or a private party.

b. **Environmental Indemnity.** To the fullest extent permitted by law, Borrower agrees to defend, indemnify, protect, release and hold harmless Lender (whether as Beneficiary, Mortgagee in Possession, as a successor in interest to Borrower by virtue of foreclosure of the Note or otherwise, as owner or operator of the Property or in any other capacity), its affiliates, subsidiaries, parties to whom Lender sells loan participations (if applicable), the successors and assigns of each and its and their directors, officers, employees, attorneys, and agents (collectively, the "Lender Parties" or singularly a "Lender Party") from and against any and all claims, suits, liabilities, actions, proceedings, obligations, debts,