

## MORTGAGE OF A LEASEHOLD

Date: \_\_\_\_\_

THIS MORTGAGE is entered on the date stated above by and between, \_\_\_\_\_ (the Borrower), P.O. BOX \_\_\_\_\_, Majuro, MH 96960, to the Marshall Islands Development Bank, a banking corporation organized under the laws of the Republic of the Marshall Islands (the Lender), P.O. Box 1048, Majuro, MH 96960.

### RECITALS

A. Borrower is the lessee under that certain lease, dated \_\_\_\_\_ 20\_\_\_\_, under which lessors, \_\_\_\_\_ Irojlaplap, Irojedrik, \_\_\_\_\_, Alab, \_\_\_\_\_, Senior Dri Jerbal, \_\_\_\_\_, leased to the Borrowers and their heirs, successors, and assigns a portion of \_\_\_\_\_ Weto \_\_\_\_\_, Atoll, Marshall Islands, more particularly described in EXHIBIT "A", for a term of \_\_\_\_ years, from \_\_\_\_\_ TO \_\_\_\_\_

B. The real property encumbered by this Mortgage includes the Leasehold, together with the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, tents royalties, profits and all fixtures now or hereafter a part of the Property (Property).

C. Borrower has agreed to borrow and the Bank has agreed to lend the principal sum not to exceed \$ \_\_\_\_\_ This debt is to be evidenced by a note (Note) from Borrowers to Lender of even date herewith. The Note shall provide for monthly payments, with the full debt, if not paid earlier or extended, due and payable 3 years from the date of the first disbursement of loan proceeds, the terms of the Note are incorporated in this Mortgage by reference.

D. This mortgage is given in consideration of and secures to the Bank: (i) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions, and modifications; (ii) the payment of all other sums, with interest, advanced under the provisions of this Mortgage; (iii) the performance of Borrower's covenant and agreements under the Note and this Mortgage; and (iv) all other indebtedness that Borrowers may in the further incur to the Bank. For these purposes, Borrowers irrevocably mortgages, grants and conveys to the Bank the Property.  
Borrowers and the Bank covenant and agree as follows:

SECTION 1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrowers shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

SECTION 2. **Application of Payments.** All payments received by the Bank under Section 1 shall be applied: first, to late charges due under the Note; second, to prepayment charges due under the Note; third, to interest due; and late, to principal due.

SECTION 3. **Warranty of Title; Prohibition against Surrendering Leasehold or**

**Modifying Lease.** Borrowers covenants that he is lawfully seized of the leasehold hereby conveyed and has the right to mortgage, grant, and convey the Property and that the Property is unencumbered. Borrowers warrants and shall defend generally the title to the Property against all claims and demands.

Borrowers shall not surrender the Leasehold, nor terminate or cancel the lease and shall not, without the Bank's express written consent, modify, change, supplement, alter, or amend the lease either orally or in writing, and any such termination, cancellation, modification, change, supplement, alteration, or amendment of the lease without the Bank's prior written consent shall be void and of no force and effect. As further security to the Bank, Borrowers does hereby deposit with the Bank the original of the lease and all amendments thereto to be retained by the Bank until all indebtedness secured by this Mortgage is fully paid, and Borrowers shall obtain the execution and recordation of the land owners' consent attached hereto and made part hereof as Exhibit B.

SECTION 4. **Charges; Liens.**

Borrowers shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property that may attain priority over this Mortgage, and all leasehold payments or ground rents. Borrowers shall pay them on time directly to the person owed payment. Borrowers shall promptly furnish to the Bank all notices of amounts to be paid under this section. If Borrowers makes these payments directly, Borrowers shall promptly furnish to the Bank receipts evidencing the payments.

Borrowers shall promptly discharge any lien that has priority over this Mortgage unless the Borrowers: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to the Bank; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Bank's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien to this Mortgage. If the Bank, in its sole discretion, determines that any part of the Property is subject to a lien which may attain priority over this Mortgage, the Bank may give Borrowers a notice identifying the lien. Borrowers shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

SECTION 5. **Hazard insurance.** Borrowers, at Borrower's sole expense, shall keep the improvements now existing or hereafter erected on the Property insured against lost by fire, hazards included within the term "extended coverage", and any other hazards for which the Bank requires insurance including without limitation vandalism, typhoons, and wave action. This insurance shall be maintained in the amounts and for the periods that the Bank requires. The insurance carrier providing the insurance shall be chosen by Borrowers subject to the Bank's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to the Bank and shall name the Bank as loss payee. The Bank shall have the right to hold the policies and renewals. If

the Bank requires, Borrowers shall promptly give to the Bank all receipts of paid premiums and renewal notices. In the event of loss, Borrowers shall give prompt notice to the insurance carrier and the Bank. The Bank may make proof of loss if not made promptly by Borrowers.

Unless the Bank and Borrowers otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if in the Bank's sole discretion the restoration or repair is economically feasible and the Bank's security is not lessened. If the restoration or repair is not economically feasible or the Bank's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrowers, If Borrowers abandons the Property, or does not answer within 30 days a notice from the Bank that the insurance carrier has offered to settle a claim, then the Bank may collect the insurance proceeds. The Bank may use the proceeds to repair or restore the Property or pay sums secured by this Mortgage, whether or not then due. The 30-day period shall begin when the notice is given.

Unless the Bank and Borrowers otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of monthly payments referred to in Section 1 above or change the amount of the payments. If under Section 20 of this Mortgage, the Property is acquired by the Bank, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to the Bank to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

**SECTION 6. Preservation and Maintenance of Property; Lease.** Borrowers shall not destroy, damage, or substantially change the Property, allow the property to deteriorate or commit waste. Borrowers shall at all times keep all buildings covered by this Mortgage in good and substantial repair and shall keep the grounds in accordance with the Bank's written requirements. Borrowers shall comply with the provisions of the Lease, and if Borrowers acquires an ownership interest in the Property, the Leasehold and ownership interest shall not merge unless the Bank agrees to the merger in writing.

**SECTION 7. Protection of the Bank's Rights in the Property.** If Borrowers fails to perform the covenants and agreements contained in this Mortgage, including without limitation the covenant to maintain hazard insurance, or if there is a legal proceeding that may significantly affect the Bank's right in the Property (such as a proceeding in bankruptcy, probate, for condemnation, or to enforce laws or regulations), then the Bank may do and pay for whatever is necessary to protect the value of the Property and the Bank's rights in the Property. The Bank's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees, and entering on the Property to make repairs. Although the Bank may take action under this paragraph, the Bank does not have any obligation to do so.

Any amounts disbursed by the Bank under this section shall become additional debt of Borrowers secured by this Mortgage. Unless Borrowers and the Bank agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the

Not rate and shall be due and payable, with interest, upon notice from the Bank to Borrowers requesting payment.

SECTION 8. **Inspection.** The Bank or its agent may make reasonable entries upon and inspections of the Property. The Bank shall give Borrower notice at the time or prior to an inspection specifying reasonable cause for the inspection.

SECTION 9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to the Bank.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrowers. In the event of a partial taking of the Property, unless Borrower and the Bank otherwise agree in writing, the sums secured by this Mortgage shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower.

If the Property is abandoned by Borrowers, or if, after notice by the Bank to Borrowers that the condemn or offers to make an award or settle a claims for damages, Borrowers fails to respond to the Bank within 30 days after the date the notice is given, the Bank is authorized to collect tan apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Mortgage, whether or not then due.

Unless the Bank and the Borrowers otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of monthly payments referred to in Section 1 of this Mortgage or change the amount of such payments.

SECTION 10. **Borrower not Released: Forbearance by the Bank not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by the Bank to the Borrowers or to any successor in interest of Borrowers shall not operate to release the liability of the original Borrowers or Borrower's successors in interest. The Bank shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrowers or Borrower's successors in interest. Any forbearance by the Bank in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

SECTION 11. **Successors and Assigns Bound.** The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of the Bank and Borrowers, subject to the provision of Section 17

SECTION 12. **Loan Charges.**

If the loan secured by this Mortgage is subject to a law that sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; (b) any sums already collected from Borrowers which exceeded permitted limits shall be refunded to Borrower. The Bank may choose to make this refund by reducing the principal owed under the Note or by making direct payment to Borrowers. If a refund reduces principal, the reduction shall be treated as a partial prepayment without any prepayment charge under the Note.

**SECTION 13. Legislation Affecting the Bank's Rights.**

If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Mortgage unenforceable according to its terms, the Bank, at its option, may declare this Mortgage in default, require immediate payment in full of all sums secured by this Mortgage, and invoke any remedies permitted by this Mortgage without further notice or demand on Borrowers.

**SECTION 14. Notices.**

Any notice, approval, consent, waiver or other communication required or permitted to be given or to be served upon any person in connection with this agreement shall be in writing. Such notice shall be personally served, sent by telegram, telex, fax, or cable, or sent prepaid by registered or certified mail with return receipt requested and shall be deemed given, (i) if personally served, when delivered to the person to whom such notice is addressed, (ii) if given by telegram, telex, fax, or cable, when sent, or (iii) if given by mail, ten (10) business days following deposit in the Marshall Islands mail. All notices, requests, demands, and other communications under the agreement shall be given to or made upon the respective parties as follows:

Lender: Marshall Islands Development Bank  
Post Office Box 1048  
MAJURO, Marshall Islands 96960  
Attention: Managing Director

Borrower \_\_\_\_\_  
P.O.BOX \_\_\_\_\_  
\_\_\_\_\_

SECTION 15. **Governing Law: Sever ability.** This Mortgage shall be governed by the laws of the Marshall Islands. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the confection provision. To this end, the provisions of this Mortgage and the Note are declared to be savable.

SECTION 16. **Borrower's Copy.** Borrowers shall be given one conformed copy of the Note and of this Mortgage.

SECTION 17. **Transfer of the Property.** If all or any part of the Property or any interest in it is transferred without the Bank's prior written consent, the Bank, at its option, may declare this Mortgage in default, require immediate payment in fully of all sums secured by this Mortgage, and invoke any remedies permitted by this Mortgage without further notice or demand on Borrowers.

SECTION 18. **Default: Remedies.** The occurrence of any of the following events shall constitute a default hereunder.

- a. Nonpayment, when due, of any amount payable on the Note, and the failure to perform any agreement of Borrowers contained herein.
- b. Any material false or misleading statement, representation, or warranty of Borrowers to the Lender.
- c. Insolvency or inability of the Borrowers to pay debts as creditors, or institution by or against the Borrowers to pay debts as they mature, or the making of an assignment for the benefit of creditors, or institution by or against the Borrowers of any proceeding alleging that Borrower is insolvent or unable to pay.
- d. Entry of any judgment against Borrowers which is not removed or discharged within the 20 days.
- e. Determination by the Lender, in its absolute discretion, that it is insecure for any other reason whatsoever.

In the event of a default, the Bank at its option may require immediate payment in full of all sums secured by this Mortgage without further demand and shall have, in addition to any other remedies available at law or equity, the power to foreclose this Mortgage by judicial process or by power of sale. The Bank shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph, including without limitation, reasonable attorneys' fees and costs of title evidence worth interest at the note rate from the date of disbursement by the Bank until said expenses are paid.

SECTION 19. **Borrower's Right to Reinstate.** In the event that this Mortgage is foreclosed by power of sale, the Borrowers shall have the right to reinstate the Mortgage as provided for by law. Upon reinstatement by Borrowers, this Mortgage and the obligations secured hereby shall remain fully effective as if no acceleration had occurred.

SECTION 20. **The Bank in Possession.**

Upon acceleration under this Mortgage or abandonment of the Property, of the Bank ( by judicially appointed receiver ) shall be entitled to enter upon, take possession of, and manage the Property and to collect the rents of the Property including those past due. Any rents collected by the Bank or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fee, premiums on receiver's bonds, and reasonable attorneys' fees, and then to sums secured by this Mortgage.

If the Borrowers shall occupy the Property, or any part thereof, after any default in payment of any amount secured by this Mortgage, Borrowers shall pay to the Bank in advance on the first day of each month a reasonable rental for the Property so occupied, and on failure to pay such reasonable rental, Borrowers may be removed from the Property by summary proceedings or by any other appropriate action or proceeding.

SECTION 21. **Statements Concerning Property.**

Borrowers shall, on request by the Bank, furnish the Bank with annual statements covering the operations of the Property.

SECTION 22.

**Maturity; Extension.** This Mortgage shall remain in full force and effect from the date of this Mortgage and during any postponement or extension of the time of paying the indebtedness or any part thereof secured by this Mortgage, until a release in writing is given to the Borrowers by the Bank.

SECTION 23. **Release.** Upon payment of all sums secured by this Mortgage, the Bank shall release this Mortgage without charge to Borrower. Borrowers shall pay any recordation costs.

SECTION 24. **Number, Gender.** As used herein, and as the circumstances require, the plural term shall include the singular, the singular shall include the plural, the neuter term shall include the masculine and feminine genders, the masculine term shall include the neuter and the feminine genders, and the feminine term shall include the neuter and the masculine genders.

SECTION 25. **Joint and Several Liability.**

If this agreement is signs by more than one person, the obligations of the undersigned shall be joint and several.

SECTION 26. **Cross Default.** A default under this mortgage shall be deemed a default under the Note and any other documents executed by the Borrower in connection of the loan secured hereby ( Loan Documents ) and a default under the Loan Documents shall be deemed a default under this mortgage.

By signing below, Borrowers accepts and agrees to the terms and covenants contained in this Mortgage. SECTION 27. WAVER OF RIGHTS OF DOWER, \_\_\_\_\_, \_\_\_\_\_

of the BORROWERS, release to Bank all of her/his right of dower in the above-described

property. Borrower: X

Co Borrower: X

## ACKNOWLEDGMENT

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, both known to me, who did several acknowledge that they severally executed the foregoing mortgage and release of rights of dower, respectively, as their own free act and deed.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
A Notary Public

My commission expires on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



EXHIBIT A

MORTGAGE OF A LEASEHOLD  
ON \_\_\_\_\_

Legal Description.

LAND OWNERS' CONSENT  
IN RESPECT TO THE LEASEHOLD MORTGAGE  
EFFECTING \_\_\_\_\_ WETO

THIS CONSENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the undersigned, representing the landowners of \_\_\_\_\_ weto, \_\_\_\_\_, Majuro Atoll, Marshall Islands.

In further consideration of the lease payments made by the lessee, \_\_\_\_\_ under the attached lease and for good and valuable consideration the receipt of which is acknowledged, the undersigned do hereby consent to the mortgage by \_\_\_\_\_ to the Marshall Islands Development Bank ( the Bank ) of all or a portion of leasehold rights under said lease. Further, the undersigned agreed that \_\_\_\_\_, as Lessee, shall not be deemed to be in default of the lease unless the undersigned first shall given to Lessee or the Bank prior written notice of such default, and Lessee or the Bank fails to cure the default within such 90-day period, or if the default is of a nature that cannot be cured within the 90-day period, Lessee or the Bank fails to commence to cure the default within the 90-day period and fails thereafter to proceed to cure with all possible diligence.

IN WITNESS WHEREOF the undersigned of executed this consent on the date first above written.

\_\_\_\_\_  
Name:  
Irojlaplap

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:  
Irojedrik

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:  
Alab

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:  
Senior Dri Jerbal

\_\_\_\_\_  
Date

**ACKNOWLEDGMENT**

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public, the above mentioned **irojlaplap**, known to me did personally appear and acknowledged that he/she executed the above as his/her own free act.

\_\_\_\_\_  
Public Notary

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public, the above mentioned **irojedrik**, known to me did personally appear and acknowledged that he/she executed the above as his/her own free act.

\_\_\_\_\_  
Public Notary

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public, the above mentioned **alab**, known to me did personally appear and acknowledged that he/she executed the above as his/her own free act.

\_\_\_\_\_  
Public Notary

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public, the above mentioned **senior ri-jerbal** known to me did personally appear and acknowledged that he/she executed the above as his/her own free act.

\_\_\_\_\_  
Public Notary

My commission expires on the \_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

