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Illinois Anti-Predatory Lending Database Program



Certificate of Exemption

Doc#: 1132746066 Fee: \$56.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 11/23/2011 03:54 PM Pg: 1 of 11

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 16-13-204-041-0000

Address:

Street: 109 S California Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60612

Lender: Daniel Lyons

Borrower: Pinea Properties, LLC

Loan / Mortgage Amount: \$100,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

Certificate number: 13476903-6573-4931-808F-6F52B5EAF06A

Execution date: 01/31/2011

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MORTGAGE

Return Document to:
 Daniel Lyons
 16819 Haven Ave.
 Orland Hills, IL 60487

THIS INDENTURE, made this 31st day of January, 2011, by and between Pinea Properties, LLC, 109 S. California Series ("Mortgagor") and Daniel Lyons, ("Mortgagee")

Mortgagor is justly indebted to Mortgagee, its successors and/or assigned, as evidenced by a Mortgage Note ("Note") in the principal amount of *One Hundred Thousand and No/100ths Dollars \$100,000.00 made payable to the order of and delivered to Mortgagee, with a final payment of the balance due on the 1st day of February 2031

To secure the payment of the principal and interest in accordance with the terms, provisions and limitations of this Mortgage and Note secured hereby and the performance of the covenants and agreements herein contained, Mortgagor mortgages, warrants, and conveys to Mortgagee, the real estate, located in Cook County and all of its estate, right, title, and interest therein, (the "Premises") more particularly described as follows:

Legal Description: SEE EXHIBIT A
 Permanent Real Estate Index Number(s): 16-13-204-04 -0000
 commonly known as: 109 S. California Ave., Chicago, IL 60612

Together with Mortgagor's interest as lessor in and to all leases of the Premises, or any part thereof, heretofore or hereafter made and entered into by Mortgagor during the life of this Mortgage or any extension or renewal thereof;

Together with all improvements, buildings, and structures now or at any time hereafter erected or situated on the real property, and all tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof (which are pledged primarily and on a parity with the real estate and not secondarily), and all shades, awnings, venetian blinds, screens, screen doors, storm doors and windows, stoves and ranges, curtain fixtures, partitions, attached floor coverings, now or hereafter therein or thereon; and all fixtures, apparatus, equipment and articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration and ventilation; and all fixtures, apparatus, equipment and articles, other than such as constitute trade fixtures, used or usable in the operation of the Premises, all of which for the purposes of this Mortgage shall be deemed to be real estate and conveyed and mortgaged hereby;

Together with all awards made to the present and all subsequent owners of the Premises by any governmental or other lawful authority for taking by eminent domain the whole or any part of the Premises or improvements thereon, the temporary use thereof or any easement thereon or thereunder, including any awards for any changes of grade of streets, which awards are hereby assigned to Mortgagee, who is hereby authorized to collect and receive the proceeds of any such awards from the authorities and to give proper receipts and acquittances therefore;

Together with all right, title, and interest of Mortgagor, now owned or hereafter acquired, in and to any and all strips and gores of land adjacent to and used in connection with the Premises and all right, title, and interest of Mortgagor, now owned or hereafter acquired, in, to, and under the street, sidewalks, and alleys adjoining the Premises.

Mortgagor further covenants, warrants, and agrees with Mortgagee as follows:

Mortgagor will promptly pay the above-described Note according to the tenor and effect thereof and as provided in

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the Note, and will also pay any other note or notes which hereafter may be given in renewal or extension thereof and any and all other sums secured hereby at the time therein and herein designated. This mortgage shall be and remain security for the payment of all such notes. Mortgagor agrees to pay a late charge of five percent for every installment which becomes overdue for a period in excess of ten (10) days, but in no event shall more than one such charge be paid or collected on any one delinquent installment regardless of how long it remains delinquent.

2. Mortgagor shall: (a) promptly repair, restore, or rebuild any buildings or improvements now or hereafter on the Premises which may become damaged or be destroyed; (b) keep the Premises in good condition and repair, without waste, and free from mechanic's liens or other liens or claims for liens not expressly subordinated to the lien hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the Premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon the Premises; (e) comply with all requirements of law, municipal ordinances, rules, regulations or restrictions of record with respect to the Premises and the use thereof; (f) make no material alterations, repairs, additions, or improvements in or on said Premises, except as required by law or municipal ordinance, without the written consent of Mortgagee; (g) suffer or permit no change in the general nature of the occupancy of the Premises without Mortgagee's written consent; (h) initiate or acquiesce in no zoning reclassification without Mortgagee's written consent; (i) allow Mortgagee to inspect the Premises at any reasonable time and permit access thereto for that purpose.

3. Before any penalty attaches, Mortgagor shall pay all general taxes and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the Premises when due and shall, upon written request, furnish Mortgagee duplicate receipts therefore. To prevent default hereunder, Mortgagor shall pay in full, under protest in the manner provided by statute, any tax or assessment which Mortgagee may desire to contest.

4. Mortgagor shall keep all buildings and improvements now or hereafter situated on the Premises insured against loss or damage by fire and such other hazards as may be reasonably required by Mortgagee, including without limitation of the generality of the foregoing and flood insurance whenever in the opinion of Mortgagee such protection is necessary, in forms, companies and amounts satisfactory to Mortgagee, and with the mortgagee clauses attached to all policies in favor of and on forms satisfactory to Mortgagee, and shall deliver all policies to Mortgagee. Mortgagor shall also carry public liability insurance protecting Mortgagor (and any tenant or other user of the Premises) against liability for injuries to persons and property occurring in, on, or adjacent to the Premises, in forms, companies, and amounts satisfactory to Mortgagee with the policy or policies evidencing such insurance to contain a thirty (30) day notice of cancellation clause in favor of Mortgagee. Such liability policy or policies or certificates thereof shall be delivered to Mortgagee. Mortgagor shall, until the indebtedness secured hereby is paid in full, furnish Mortgagee at least ten (10) days prior to the date each coverage required herein would otherwise expire, with evidence of the renewal or continuation of such coverage in the form of premium receipts or renewal policies or certificates. In the event the Premises or any part thereof are at any time leased and the lease or leases have been assigned to Mortgagee as additional security for the payment of indebtedness secured by this Mortgage, Mortgagor shall, upon the request of the Mortgagee, provide rent interruption insurance payable to Mortgagee in an amount equal to the annual rent payable under such assigned lease or leases plus the lessee's or lessees' approximate annual liability for taxes and insurance as provided in the lease or leases.

5. In the event of any damage to or destruction of the Premises covered by any policy or policies of insurance required to be carried by Mortgagor, Mortgagee may in its discretion (and is hereby authorized) either settle and adjust any claim under such insurance policy or policies without consent of Mortgagor, or allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, the proceeds shall be paid to Mortgagee; and Mortgagee is authorized to collect and to give receipt therefore. If (a) Mortgagor or any lease is obligated to rebuild and restore the damaged or destroyed buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this Mortgage; and (b) such damage or destruction does not result in the cancellation or termination of any such lease; and (c) the insurers do not deny liability with respect to the loss, such proceeds, after deducting therefrom an expenses incurred in the collection thereof, shall be used to reimburse Mortgagor or the lessee (whichever is obligated under the terms of the lease to accomplish the rebuilding and restoration) for the cost of rebuilding and restoring the buildings and improvements on the Premises. In all other cases such insurance proceeds may at the option of Mortgagee, either be applied in reduction of the indebtedness secured hereby, whether or not then due and payable, or held by Mortgagee and used to reimburse

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Mortgagor for the cost of the rebuilding and restoration of buildings and improvements on the Premises. In applying insurance proceeds on account of any indebtedness secured hereby, Mortgagee shall be entitled to collect out of such proceeds a premium on the amount prepaid at the same rate as though Mortgagor had elected at the time of such application of proceeds (or if Mortgagor then has no such election, at the first succeeding date Mortgagor could so elect) to prepay the indebtedness in accordance with the terms of the Note secured hereby. Following any damage to or destruction of the buildings or improvements on the Premises (and regardless of the cause thereof, the availability of insurance proceeds or the manner of use of those proceeds by Mortgagee), until all indebtedness secured hereby shall be fully paid, Mortgagor shall be obligated to repair, restore, and rebuild any buildings or improvements so damaged or destroyed. Repair and restoration of the buildings and improvements shall be commenced promptly after the occurrence of the loss and shall be diligently prosecuted to completion; and the buildings and improvements shall be so restored and rebuilt as to be at least equal value and substantially the same character as prior to such damage and destruction; and in the event the estimated costs of rebuilding and restoration exceed twenty-five percent (25%) of the indebtedness then remaining unpaid as secured by this Mortgage the drawings and specifications pertaining to such rebuilding and restoration shall be subject to the prior written approval of Mortgagee. In the event that Mortgagor or any lessee is entitled to reimbursement out of the proceeds, such proceeds shall be made available from time to time upon the furnishing to Mortgagee of satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractor's sworn statements, and other evidences of cost and of payment as Mortgagee may reasonably require and approve. No payment made by Mortgagee prior to the final completion of the work shall, together with all payments therefore made, exceed ninety percent (90%) of the value of the work performed to the time of payment; and at all times the undisbursed balance of such proceeds remaining in the hands of Mortgagee shall be at least sufficient to pay for the cost of completion of the work free and clear of liens.

Should a loss occur after foreclosure or sale proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoration of the buildings or improvements, shall be used to pay the amount due in accordance with any judgment of foreclosure or deficiency judgment that may be entered in connection with such proceedings; and the balance, if any, shall be paid to the owner of the equity of redemption if he shall then be entitled to the same, or otherwise as any court having jurisdiction may direct. Following any foreclosure sale or other sale of the Premises by Mortgagee pursuant to the terms hereof, Mortgagee is authorized without the consent of Mortgagor to assign its interest in any and all insurance policies to the purchaser at the sale and to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

6. If by the laws of the United States or of any state having jurisdiction of Mortgagor or of the Premises or of the transaction evidenced by the Note and this Mortgage, any tax or fee is due or becomes due in respect of the insurance of the Note hereby secured or the making, recording, and registration of this Mortgage, Mortgagor covenants and agrees to pay such tax or fee in the manner required by such law, and to hold harmless and indemnify Mortgagee, its successors and assigns against any liability incurred by reason of the imposition of any such tax or fee.

7. If the payment of the indebtedness secured hereby or of any part thereof shall be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefore or interested in the Premises shall be held to assent to such extension, variation, or release; and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Mortgagee notwithstanding such variation or release.

8. In the event of the enactment after the date hereof any law of the state in which the Premises are located deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the property, or on the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holder thereof, then and in any such event Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments or reimburse Mortgagee therefore; provided, however, that if in the opinion of counsel for Mortgagee it might be unlawful to require Mortgagor to make such payment, or the making of such payment might be construed as imposing a rate of interest beyond the maximum permitted by law, then and in such event Mortgagee may elect by notice in writing given to Mortgagor to declare all of the indebtedness secured hereby to be

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and become due and payable sixty (60) days from the giving of such notice.

9. In case of any default herein by Mortgagor, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor, in any form and manner deemed expedient; and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any; and purchase, discharge, compromise, or settle any tax lien or other prior lien or title or claim thereof; or redeem from any tax sale or forfeiture affecting said Premises; or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith including attorney's fees and any other money advanced by Mortgagee to protect the Premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at a rate of 12% per annum, from the date of expenditure or advance until paid. No inaction on the part of Mortgagee shall be considered as a waiver of any right accruing to it on account of any default on the part of the Mortgagor.

10. In making any payment hereby authorized relating to taxes or assessments or for the purchase, discharge, compromise, or settlement of any prior lien, Mortgagee may make such payment according to any bill, statement or estimate secured from the appropriate public office without inquiry into the accuracy thereof or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof or without inquiry as to the validity or amount of any claim for lien which may be asserted.

11. If (a) default be made in the due and punctual payment of the Note or any installment thereof in accordance with its terms, either of principal or interest; (b) Mortgagor or any co-maker or guarantor of the Note secured hereby shall file a petition in voluntary bankruptcy or under Chapter VII, Chapter XI or Chapter XIII of the Federal Bankruptcy Act or any similar law, state or federal whether now or hereafter existing, or any answer admitting insolvency or inability to pay its debts, or fail to obtain a vacation or stay of involuntary proceedings with twenty (20) days as hereinafter provided; or (c) Mortgagor or any co-maker or guarantor of the Note secured hereby shall transfer or assign all or a major portion of its assets by an owner to an inter vivos trust of which the owner is the trustee for his own benefit during his life, or shall be adjudicated a bankrupt, or a trustee or receiver shall be appointed for Mortgagor or for all or a major portion of its property in any involuntary proceeding, or any court shall have taken jurisdiction of the property of Mortgagor or of the major part thereof in an involuntary proceeding for the reorganization, dissolution, liquidation, or winding up of Mortgagor, and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within twenty (20) days; or (d) Mortgagor or any co-maker or guarantor of the Note secured hereby shall make an assignment for the benefit of creditors or shall admit in writing its liability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all of its property or the major part thereof; or (e) default shall be made in the due observance or performance of any other of the covenants or agreements or conditions herein contained, required to be kept or performed or observed by Mortgagor; or (f) any representative or warranty made herein by Mortgagor shall prove to be untrue or inaccurate in material respect; then in each and every such case, at the Mortgagee's option, the entire principal sum shall at once become immediately due together with accrued interest thereon.

In case of a default or failure to act or perform as set out herein, Mortgagor hereby authorizes and empowers Mortgagee immediately to commence suit for the collection of the indebtedness secured hereby, or any part thereof, or for the foreclosure of this Mortgage, or to obtain any other proper remedy deemed desirable by Mortgagee or any combination of the aforesaid remedies. Mortgagor agrees to pay all costs, charges and expenses reasonably incurred by Mortgagee because of the failure of Mortgagor to perform its duties and obligations under this Mortgage and the Note secured hereby including attorney's fees, appraiser's fees, and title expenses and any and all expenses of foreclosure deemed reasonably necessary by Mortgagee to prosecute the foreclosure action and successfully obtain good and merchantable title to the Premises. These sums shall include any fees or costs paid by Mortgagee defending any claim made by Mortgagor arising out of the Note, Mortgage or the relationship between the parties emanating from the Note or Mortgage.

At any time after default either before or after the commencement of an action in foreclosure, the holder of this Mortgage shall be entitled to its appointment as Mortgagee in Possession or to the appointment of a receiver for the Premises, with power to collect the rents, issues, and profits of said Premises with power to collect the rents, issues, and profits of said Premises due and becoming due during the pendency of such foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness

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secured by this Mortgage, without regard to the value of the Premises or the solvency of any person or persons liable for the payment of the mortgaged indebtedness.

For itself and any subsequent owner, Mortgagor hereby waives any and all defenses to the application for the appointment of Mortgagee in Possession or a receiver as above, and hereby specifically consents to such appointment without notice; but nothing is to be construed to deprive the holder of this Mortgage of any other right, remedy or privilege it may now have under the law to be appointed Mortgagee in Possession or have a receiver appointed Mortgagee in Possession or have a receiver appointed. Whenever there is a default, regardless of whether Mortgagee elects to foreclose this Mortgage, Mortgagee may collect all rents which may become due on the above property, deducting therefrom any necessary operating expenses plus a reasonable fee which might otherwise be paid to a property manager as compensation for making the collections, and apply the remainder on the balance of the Note.

12. Mortgagor hereby assigns, transfers, and sets over to Mortgagee the entire proceeds of any award or claim for damage for any of the mortgaged property taken or damaged under the power of eminent domain or by condemnation. Mortgagee may elect to apply the proceeds of the award upon or in reduction of the indebtedness secured hereby, whether or not then due and payable, or to require Mortgagor to restore or rebuild, in which event the proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the cost of restoring and rebuilding all buildings and improvements on the Premises in accordance with plans and specifications to be submitted to and approved by Mortgagee. If Mortgagor or any lessee is obligated to restore and replace the damaged or destroyed buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this Mortgage and if such taking does not result in cancellation or termination of such lease, the award shall be used to reimburse Mortgagor of the lessee (whichever is obligated and under the terms of the lease to accomplish the rebuilding and restoration) for the cost of rebuilding and restoring the buildings and improvements on said Premises, provided Mortgagor is not then in default under this Mortgage. In the event Mortgagee holds the proceeds to reimburse Mortgagor or any lease for the costs of rebuilding and restoring the Premises, then the proceeds of the award will be paid out in the same manner as provided in Paragraph 5 hereof for the payment of insurance proceeds in reimbursement of the costs of rebuilding and restoration. If the amount of such award is sufficient to cover the cost of rebuilding and restoration, Mortgagor shall pay such cost in excess of the award before being entitled to reimbursement out of the award. Any surplus which may remain out of said award after payment of such cost of rebuilding and restoration shall, at the option of Mortgagee, be applied on account of the indebtedness secured hereby or be paid to any other party entitled thereto. In applying the proceeds of any award on account of the indebtedness secured hereby, Mortgagee shall be entitled to collect out of the proceeds of the award a premium on the amount prepaid at the same rate as though Mortgagor had elected at the time of such application of proceeds (or if Mortgagor then has no such election, at the first succeeding date Mortgagor could so elect to prepay the indebtedness in accordance with the terms of the Note secured hereby.

13. Upon payment in full of the indebtedness secured hereby and the performance by Mortgagor of all of the obligations imposed on Mortgagor herein and in the Note, Mortgagor shall provide Mortgagee with a release of this Mortgage in recordable form.

14. Any notice which any party hereto may desire or be required to give to the other shall be deemed to be adequate and sufficient notice if given in writing, and service is made by the mailing by First Class Mail and either facsimile transmission or electronic mail addressed to Mortgagor at denis.sulli@gmail.com with a copy to: _____ or to Mortgagee at _____ with a copy to Nona Brady, 136 Pulaski Rd., Calumet City, IL 60409, fax 708-862-5401, e-mail nb11jd@comcast.net; or to such other place as either party hereto may by notice in writing to the other party designate as a place for service of notice.

15. In case Mortgagee is made a party to any suit or proceedings at law or in equity by reason of its interest in the Premises as evidenced by this Mortgage, Mortgagor promises to pay to Mortgagee all reasonable costs, charges, and attorney's fees incurred by Mortgagee in the preparation and trial of such suit or proceedings. Mortgagee may appear in and defend any action or proceeding purporting to affect the security hereof, and Mortgagor promises to pay all reasonable costs, charges and attorney's fees so incurred. All sums expended or incurred by Mortgagee pursuant to this Paragraph shall be secured hereby as so much additional indebtedness owing by Mortgagor to Mortgagee.

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16. Notwithstanding anything herein or in the Note contained to the contrary, no provision contained herein and no provision contained herein and no provision contained in the Note which purports to obligate Mortgagor to pay any amount of interest or any fees, costs, or expenses which are in excess of the maximum permitted by applicable law, shall be effective to the extent that it calls for payment of any interest or other sum in excess of such maximum.

17. Mortgagor warrants that all federal, state, and other tax returns of Mortgagor or its beneficiary required by law to be filed have been duly filed; and all federal, state, and other taxes, assessments, and governmental charges upon Mortgagor which to the knowledge of Mortgagor are due and payable have been paid.

18. At Mortgagor's expense, at any time upon request by Mortgagee, Mortgagor will execute and deliver all further assurances of title and all pertinent additional papers, information, records, and instruments as may be required by Mortgagee for effectually carrying out the intentions of the parties hereto.

19. In order to better secure the payment of the Note and the indebtedness evidenced thereby, Mortgagor assigns and transfers to Mortgagee, its successors and assigns, all its right, title and interest in and to all leases of the Premises or any part thereof heretofore made and entered into, and in and to all such leases hereafter made and entered into during the life of this Mortgage, including all extensions and renewals thereof and all rents, profits, and income arising from any part of the Premises and any such leases with the full right, but without the obligation on the part of Mortgagee to collect the rents and income.

20. In any case in which, under the provisions of this Mortgage, Mortgagee has a right to declare the principal sum secured hereby to be immediately due and payable, either before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, or in any case where Mortgagee has a right to commence proceedings for the sale of the Premises independent of any foreclosure proceedings; then Mortgagor shall forthwith upon demand of Mortgagee surrender to Mortgagee the possession of the Premises, and the Mortgagee shall be entitled to take actual possession of the Premises or any part thereof personally or by its agents or attorneys; and Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of the Premises; and may as attorney-in-fact or agent of Mortgagor or in its own name as Mortgagee and under the powers herein granted both, operate, manage, or control the Premises either personally or by its agents and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the income, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer, and actions in distress for rents, hereby granting full power and authority to exercise each and every of the rights and privileges herein granted at any and all times hereafter, without notice to Mortgagor, and with full power to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same, to elect to disaffirm any lease or sublease made subsequent to this Mortgage or subordinated to the lien thereof (unless this Mortgage has specifically been made subordinate to such lease or sublease) or unless Mortgagee has agreed in writing not to disturb said lease; to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements to the Premises as may seem judicious; to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation, and management thereof; and to receive all of such income, rents, issues and profits.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty, or liability under any lease; and Mortgagor shall and does hereby agree to indemnify and to hold Mortgagee harmless of and from all liability, loss or damage which it might incur under said leases or under or by reason of the assignment therefore, and of and from any and all claims or demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in said leases. Should Mortgagee incur any such liability, loss or damage under any of said leases, or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees, shall be secured hereby; and Mortgagor shall reimburse Mortgagee therefore immediately upon demand.

21. Subject to the provisions of any court order or judgment providing otherwise, the proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings; second, all other items which under the terms hereon constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided;

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third, all principal and interest remaining unpaid on the Note; fourth, any overage to Mortgagor, its successors or assigns, as their rights may appear.

22. Mortgagor agrees that all costs, charges and expenses, including reasonable attorney's fees incurred by Mortgagee arising out of or in connection with any action, proceeding, or hearing, legal or quasi legal, or the preparation therefore, in any way affecting or pertaining to this Mortgage, the Note secured hereby, or the Premises, shall be promptly paid by Mortgagee. If funds for same are advanced by Mortgagee, all such sums so advanced shall be added to the indebtedness secured hereby and shall bear interest at the default rate set forth in the Note secured hereby, and shall be due and payable on demand.

23. Mortgagor acknowledges that the Premises are not residential property as that term is defined in 735 ILCS 5/15-1219, and Mortgagor hereby waives any and all rights of redemption to the extent permitted under 735 ILCS 5/1601(b). This waiver shall apply to each and every person acquiring any interest in, or title to, the Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons.

24. This Mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and all persons claiming by, under, or through Mortgagor; and the word "Mortgagor" when used herein shall include the successors and assigns of the Mortgagor and all parties liable for the payment of the indebtedness or any part thereof, whether or not such parties shall have executed the Note or this Mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein, and the holder or holders, from time to time, of the Note secured hereby.

25. Time is of the essence in this contract, and no waiver of any obligation or option hereunder shall at any time thereafter be held to be a waiver of the terms hereof or of the Note secured hereby.

26. This Mortgage shall be governed by, and construed in accordance with, the laws of the State of Illinois.

27. Hazardous Substances:

A. The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 2901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. Mortgagor represents and warrants to Mortgagee that: (a) During the period of Mortgagor's ownership of the Premises, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Premises; (b) Mortgagor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Mortgagee in writing (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance by any prior owners or occupants of the Premises or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by Mortgagee in writing, (i) neither Mortgagor nor any tenant, contractor, agent or other authorized user of the premises shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, or about the Premises and (ii) any such activity shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Mortgagor authorizes Mortgagee and its agents to enter upon the Premises to make such inspections and tests as Mortgagee may deem appropriate to determine compliance of the Premises with this Paragraph of this Mortgage. Any inspections or tests made by Mortgagor shall be for Mortgagor's purposes only and shall not be construed to create any responsibility or liability on the part of Mortgagee to Mortgagor or to any other persons. The representations and warranties contained herein are based on Mortgagor's due diligence in investigating the Premises for hazardous waste. Mortgagor hereby (a) releases and waives any future claims against Mortgagee for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Mortgagee against any and all claims, losses, liabilities, damages, penalties, and expenses which Mortgagee may directly or indirectly sustain or suffer resulting from a breach of this Paragraph of this Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release occurring prior to Mortgagor's ownership or interest in the Premises, whether or not the same was or should be

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known to Mortgagor. The provisions of this Paragraph of this Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Mortgagee's acquisition of any interest in the Premises, whether by foreclosure or otherwise.

B. Mortgagor covenants and agrees with Mortgagee that Mortgagor shall promptly notify Mortgagee as soon as Mortgagor knows or suspects that a toxic or hazardous substance has been released on the premises.

28. It shall be an event of default hereunder and the indebtedness hereby secured shall be immediately due and payable (to the extent permitted by law) if, without the prior written consent of Mortgagee, Mortgagor shall create, effect, consent to, or suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of the Premises or any part thereof or interest therein, excepting only sales or other dispositions of Collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by new Collateral subject to the first and prior lien of Mortgagee of at least equal value and utility; provided that the foregoing provisions of this Paragraph 28 shall not apply to (i) liens securing the indebtedness hereby secured, (ii) the lien of current taxes and assessments not in default, (iii) any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, in Mortgagor or any beneficiary of a trustee Mortgagor by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives, or committee; (iv) any transfers of membership interest by an owner of that interest to an inter vivos trust of which the owner is the trustee for his own benefit during his life, and (v) to the extent prohibited by law. The provisions of this Paragraph 28 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof otherwise shall acquire any part of or interest in or encumbrance upon the Premises or interest in, Mortgagor or any beneficiary of a trustee Mortgagor.

29. This Mortgage is to be filed for record with the Recorder of Deeds of the County where the Premises are located. The Mortgagor is the record owner of the Premises.

IN WITNESS WHEREOF, Mortgagor has executed these presents as of the day and year first above written

BORROWER:

BORROWER:

Pinea Properties, LLC, 109 S. California Series

Pinea Properties, LLC, 109 S. California Series

By: Claire Sullivan
Claire Sullivan

By: Andrea Thompson
Andrea Thompson

Its: Managing Member

Its: Managing Member

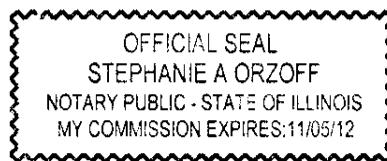
State of Illinois)
) SS
County of Cook)

I, Stephanie Orzoff, a Notary Public in and for the County in the State aforesaid, do hereby certify the Claire Sullivan and Andrea Thompson, the Managing Members of Pinea Properties, LLC, 109 S. California Series, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered this Mortgage on behalf of Pinea Properties, LLC, 109 S. California Series, as their free and voluntary act for the uses and purposes therein set forth.

Given Under my Hand and Notarial Seal

This 31 day of January 2011

Stephanie Orzoff
Notary Public

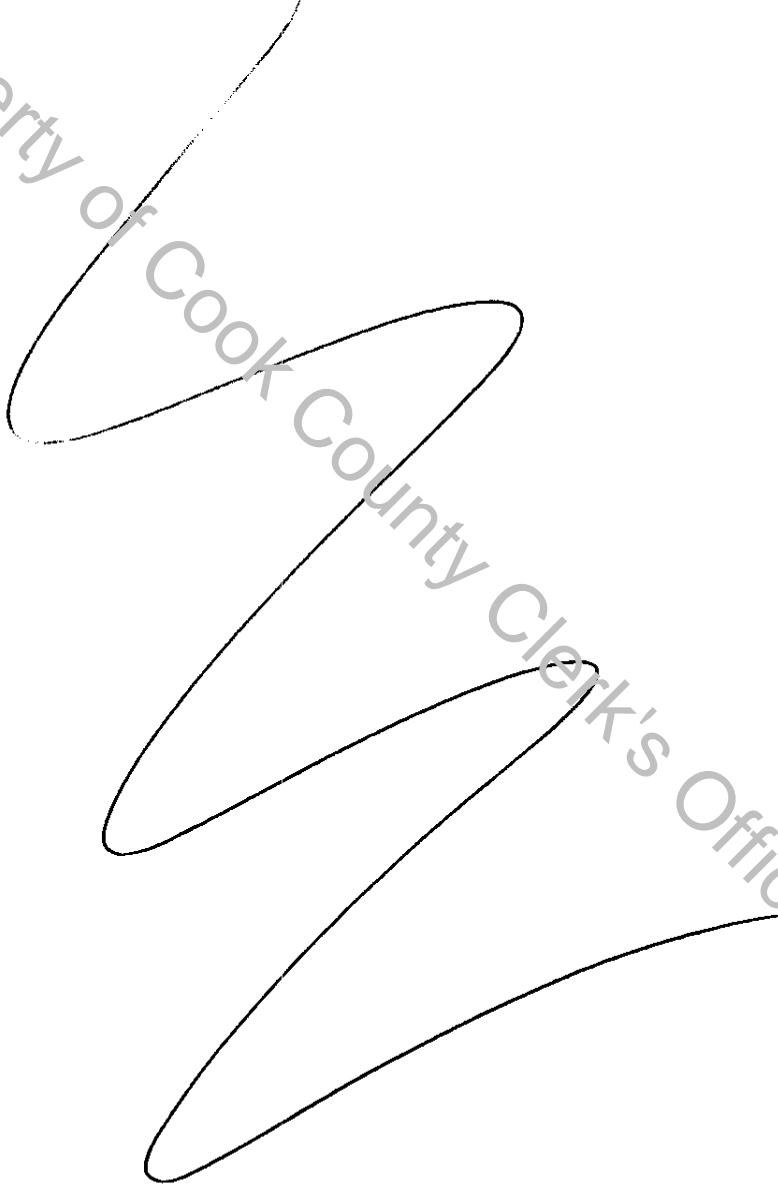


UNOFFICIAL COPY

My Commission expires 11/5/12

This Instrument was Prepared by:
Nona Brady, 136 Pulaski Rd., Calumet City, IL 60602

Property of Cook County Clerk's Office



UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

The North $\frac{1}{2}$ of the South 50 feet of Lots 21, 22, 23 and 24 in Asa D. Reed's Subdivision of Lots 1 and 2 in Block 1 in Rockwell's Addition to Chicago, a subdivision of the Northeast $\frac{1}{4}$ of Section 13, Township 39 North, Range 13, East of the Third Principal Meridian, and the West $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 18, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N: 16-12-204-041-0000

Common Address: 109 S. California Ave., Chicago, IL 60612

Property of Cook County Clerk's Office