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Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Doc#: 1500756062 Fee: \$96.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 01/07/2015 09:38 AM Pg: 1 of 30

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 14-20-114-033-0000

Address:

Street: 3728-3730 N. SOUTHPORT AVE.

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60613

Lender: BRANCH BANKING & TRUST COMPANY

Borrower: PISTACHIO, LLC

Loan / Mortgage Amount: \$1,660,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Certificate number: 753394E1-72C7-4E39-A990-6F31DF6805BD

Execution date: 12/19/2014

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Reviewed and Prepared by:

Lisa Sincere, Esq.

Selzer Gurvitch Rabin Wertheimer Polott & Obecny, PC
4416 East West Highway, Fourth Floor
Bethesda, Maryland 20814

~~AFTER RECORDING RETURN TO:~~

H. Mark Rabin, Esq.
Selzer Gurvitch Rabin Wertheimer Polott & Obecny, PC
4416 East West Highway, Fourth Floor
Bethesda, Maryland 20814

Return to:
PROPEH TITLE, LLC
400 Skokie Blvd Ste. 380
Northbrook, IL 60062
2013 PM 0328

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this 19th day of December, 2014, by **PISTACHIO, LLC**, a Maryland limited liability company (the "Mortgagor") for the benefit of **BRANCH BANKING AND TRUST COMPANY** (the "Lender," who, with other holders of the Note as defined herein, is from time to time hereinafter sometimes referred to as the "Mortgagee").

RECITALS:

WHEREAS, Mortgagor is or shall be justly indebted to Lender in the aggregate principal amount of up to One Million Six Hundred Sixty Thousand and 00/100 Dollars (\$1,660,000), as evidenced by a promissory note executed on even date herewith by the Mortgagor and made payable to the Lender in the original principal amount of One Million Six Hundred Sixty Thousand and 00/100 Dollars (\$1,660,000) or so much thereof as is advanced (said promissory note, together with any extensions, renewals and modifications thereof or substitutions therefor, is hereinafter referred to as the "Note");

WHEREAS, the Note has an interest rate of 30-day LIBOR plus 2.15% per annum and a maturity date of April 19, 2018;

WHEREAS, the Note evidences the Mortgagor's obligations to the Mortgagee with respect to a certain loan which the Mortgagee is willing to make to the Mortgagor provided that this Mortgage is given as security for such loan (the "Loan"); and

WHEREAS, the Mortgagor wishes and intends, by the execution and delivery of this Mortgage, to secure (a) the full and punctual payment of (i) the principal sum and the interest thereon according to the terms of the Note and (ii) certain other indebtedness as hereinafter set forth, and (b) the performance of, and compliance with, all of the terms, covenants, conditions, stipulations and agreements contained in the Note, this Mortgage and all other documents executed and delivered in connection with the aforesaid borrowing by the Mortgagor, all as more specifically set forth herein.

NOW, THEREFORE, the Mortgagor, and its successors and assigns, does hereby agree as follows:

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THAT the Mortgagor, in consideration of the premises and the sum of \$1.00 lawful money of the United States of America, to it in hand paid, the receipt of which, before the sealing and delivering of these presents, being hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell and convey unto the Mortgagee, and its successors or successor in the trust, with power of sale and right of entry and possession: all right, title and interest which Mortgagor now has or may hereafter acquire in those certain parcels of land located in Cook County, in the State of Illinois, being more particularly described in Exhibit A attached hereto and hereby incorporated herein and made a part hereof by this reference together with all common areas with respect thereto (hereinafter referred to as the "Land"); and

TOGETHER with all right, title and interest of the Mortgagor, including any after-acquired title or reversion, in and to the beds of the ways, streets, avenues and alleys adjoining the Land; and

TOGETHER with all right, title and interest of the Mortgagor in and to all and singular the rights, alleys, ways, tenements, hereditaments, easements, appurtenances, passages, waters, water rights, water courses, riparian rights, other rights, liberties, advantages, accessions and privileges now or hereafter appertaining to the Property (as hereinafter defined) or any part thereof, including, but not limited to, any homestead or other claim at law or in equity, the reversion or reversions, remainder or remainders thereof, and also all the estate, property, claim, right, title or interest now owned or hereafter acquired by the Mortgagor in or to the Property or any part thereof; and

TOGETHER with all right, title and interest of the Mortgagor in and to all improvements, structures and buildings of any kind now or hereafter erected or placed on the Land and all replacements thereof (hereinafter sometimes referred to collectively as the "Improvements"); and

TOGETHER with all right, title and interest of the Mortgagor in and to all building materials, fixtures, machinery, and equipment of every kind and nature whatsoever (other than consumable goods, inventory and trade fixtures or other personal property owned by tenants occupying all or any portion of the Improvements), now or hereafter located or contained in or upon or attached to the Land or the Improvements or any part thereof, and used or usable in connection with any present or future use or operations of the Land or the Improvements or any part thereof, whether now owned or hereafter acquired by the Mortgagor or others (all of the foregoing, together with all renewals or replacements thereof, substitutions herefor and additions thereto, being hereinafter sometimes referred to collectively as the "Equipment"). All of the Equipment, so far as permitted by law, shall be deemed to be fixtures and part of the Land and of the Improvements, and as to any part of the Equipment not deemed or permitted by law to be fixtures, this Mortgage shall also constitute a security agreement under the Illinois Uniform Commercial Code (the "Uniform Commercial Code"), and pursuant thereto, and in order to secure the repayment of the "Indebtedness" (as hereinafter defined) and the performance of the obligations intended to be secured by this Mortgage, the Mortgagor hereby grants to the Mortgagee a security interest under the Uniform Commercial Code in and to such part of the Equipment not deemed or permitted by law to be fixtures, and the proceeds (cash and non-cash) thereof, including the proceeds of any and all insurance policies in connection therewith. With

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respect to such Equipment, the Mortgagee shall have all the rights and remedies of the secured party under the Uniform Commercial Code.

TOGETHER with all right, title and interest of the Mortgagor in and to any and all judgments, awards of damages (including, but not limited to, severance and consequential damages), payments, proceeds, settlements or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, in connection with, or in lieu of (a) any taking of the Property or any part thereof under the power of eminent domain, either temporarily or permanently, (b) any change or alteration of the grade of any street, and (c) any other injury or damage to, or decrease in value of, the Property or any part thereof (all of the foregoing being hereinafter sometimes referred to collectively as the "Condemnation Awards", or singularly a "Condemnation Award"), to the extent of all Indebtedness which may be secured by this Mortgage at the date of receipt of any such Condemnation Award by the Mortgagee, and of the actual attorneys' fees, costs and disbursements, if any, incurred by the Mortgagee in connection with the collection of such Condemnation Award or payment; and

TOGETHER with all right, title and interest of the Mortgagor in and to any and all payments, proceeds, settlements or other compensation heretofore or hereafter made, including any interest thereon, and the right to receive the same, from any and all insurance policies covering the Property or any portion thereof; and

TOGETHER with all right, title and interest of the Mortgagor in and to all of the rents, royalties, issues, profits, revenues, income and other benefits of the Property, or arising from the use or enjoyment of all or any portion thereof or from any lease or sale agreement pertaining thereto, and all right, title and interest of the Mortgagor in and to, and remedies under, all leases and contracts of sale of the Property, or any part hereof, both now in existence and hereafter entered into, including, without limitation, all cash or securities deposited thereunder to secure performance by the lessees or purchasers of their obligations thereunder, whether such cash or securities are to be held until the expiration of the terms of such leases or are to be applied to one or more of the installments of rent coming due immediately prior to the expiration of such terms; reserving in the Mortgagor the right to collect and receive the same until there is a default under any of the "Loan Documents" (as hereinafter defined);

Unless specifically designated otherwise, the Land, the Improvements, the Equipment, the Condemnation Award, and all other items and property described in the preceding paragraphs hereof shall hereinafter be collectively referred to as the "Property;" and

TO HAVE AND TO HOLD the Property and all other interests described above unto the Mortgagee, and its successor or successors in the trust, in fee simple;

IN TRUST to secure to the Mortgagee (a) the payment of all sums of money secured hereby (hereinafter referred to as the "Indebtedness"), which Indebtedness shall include, but not be limited to, (i) all moneys and all sums of principal, interest and prepayment premium (if any) due or to become due under the Note, (ii) all other moneys now or hereafter advanced or expended by the Mortgagee as provided for herein or in any other of the Loan Documents or by applicable law, and (iii) all costs, expenses, charges, liabilities, commissions, half commissions and attorneys' fees now or hereafter chargeable to, or incurred by, or disbursed by, the Mortgagee or the Mortgagor as provided for herein, or in any other of the Loan Documents or by applicable law, and (b) the Mortgagor's performance of, observance of and compliance with all

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of the terms, covenants, conditions, stipulations and agreements contained herein and in the Note, and each Guarantor's performance of, observance of and compliance with all of the terms, covenants, conditions, stipulations and agreements contained in the Guaranty or in any of such other documents evidencing or securing the Note, including any and all Uniform Commercial Code financing statements (which documents, as the same may be modified or amended from time to time as approved by the Mortgagee, together with this Mortgage, the Loan Agreement entered into on even date herewith, and any and all other documents which the Mortgagor, or any third party or parties, has executed and delivered or may hereafter execute and deliver to evidence or secure the Indebtedness, or any part thereof, or in connection therewith, are hereinafter referred to collectively as the "Loan Documents").

PROVIDED, HOWEVER, that until the occurrence of an event of default hereunder, and subject to any provisions hereof to the contrary, the Mortgagor shall have the right to remain in peaceful possession of the Property, and to collect, receive and retain the rents, revenues, profits, proceeds, income and royalties therefrom; and

PROVIDED, FURTHER, that, subject to Article VI, below, if Mortgagor shall pay or cause to be paid to the Mortgagee the entire Indebtedness attributable to the Note, in full at the time and in the manner stated in the Note, and in this Mortgage and in the other Loan Documents at any time before the sale hereinafter provided for, and shall well and truly perform, comply with and observe each and every covenant, agreement, term and condition of this Mortgage and of the other Loan Documents, then these presents and the estate granted hereby shall cease, determine and become void with respect to the Property and upon proof given to the satisfaction of the Mortgagee that the Indebtedness of the Mortgagor has been so paid or satisfied in full, the Mortgagee shall (at the expense of the Mortgagor), release and discharge the lien and terminate the security interest of this Mortgage of record with respect to the Property, as applicable, upon payment to the Mortgagee of a reasonable fee for the release and reconveyance of such Property or any partial release and reconveyance thereof.

AND THIS MORTGAGE FURTHER WITNESSETH,

THAT the Mortgagor hereby represents, warrants, covenants and agrees as follows, and stipulate that a breach of any of the following representations, warranties, covenants and agreements shall be deemed a breach of a material condition of this Mortgage and of the other Loan Documents:

ARTICLE I **REPRESENTATIONS AND WARRANTIES**

Section 1.01. Name and Authority of the Mortgagor. The Mortgagor represents and warrants that: (a) its correct legal name is exactly as set forth on the first page of this Mortgage; (b) it is a trust duly existing and operating under the laws of the State of Maryland; (c) it has the power, authority and legal right to own its property and carry on the business now being conducted by it and to engage in the transactions contemplated by the Loan Documents; (d) the execution and delivery of, and the carrying out of the transaction contemplated by, the Loan Documents, and the performance and observance of the terms, covenants, agreements and provisions of the Loan Documents have been duly authorized by all necessary actions of the Mortgagor and will not conflict with or result in a breach of the terms or provisions of any existing law or existing rule, regulation or order of any court or governmental body or of the trust

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agreement of the Mortgagor; and (e) the Loan Documents constitute the valid and legally binding obligations of the Mortgagor and are fully enforceable against the Mortgagor in accordance with their respective terms.

Section 1.02. Warranty of Title. The Mortgagor represents and warrants that, at the time of the execution and delivery of this Mortgage, the Mortgagor is the owner of the fee simple legal title to, and is lawfully seized and possessed of, the Property. The Mortgagor has the right and authority to convey the Property and does hereby warrant specially, and agrees to defend, the Property and the title thereto, whether now owned or hereafter acquired, against all claims and demands by any person. The Mortgagor further represents and warrants that the lien created hereby is and will be maintained as a first and only lien upon the Property and every part thereof.

Section 1.03. Purpose. The Mortgagor represents and warrants that the Loan evidenced and secured by the Loan Documents is solely for the purpose of carrying on a business, investment, or commercial enterprise.

Section 1.04. Tax Assessment. The Land and the Improvements covered by this Mortgage are assessed for purposes of Taxes (as defined in Section 2.04 of this Mortgage) as tax parcels separate and distinct from any other real property so that the Land and Improvements shall never become subject to the lien of any Taxes levied or assessed against any real property other than the Land and Improvements described in this Mortgage.

Section 1.05. Environmental Status.

(a) Mortgagor hereby represents that: (i) neither Mortgagor nor any other person with Mortgagor's knowledge has ever caused or permitted any Hazardous Substances (as defined hereinbelow) to be placed, held, located or disposed on, under or at the Property or any part thereof and neither the Property nor any part thereof ever has been used (whether by Mortgagor or by any other person) as a dump site or storage site (whether permanent or temporary) for any Hazardous Substances (as defined below) except in accordance with all applicable laws; (ii) Mortgagor has not received any Environmental Complaint (as defined hereinbelow); and (iii) to the best of Mortgagor's knowledge, (1) the Property is free and clear of all Hazardous Substances, and (2) the current use and occupancy of the Property comply with all Federal, state and local environmental laws, statutes, ordinances, codes, rules, regulations, permits, orders and decrees.

(b) Mortgagor hereby agrees to indemnify, defend at Mortgagee's option, and hold the Mortgagee harmless from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, claims for damage to the environment, claims for owed penalties, costs of any settlement or judgment and claims of any and every kind whatsoever paid or incurred and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the Mortgagee by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, (i) the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release onto or from, the Property of any Hazardous Substances (including, without limitation, any losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, or any so called federal, state or local "superfund" law, or any other statute, law, ordinance, code, rule, regulation, order or decree

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regulating, relating to or imposing liability, including strict liability, substances or standards of conduct concerning any Hazardous Substances), regardless of whether or not within the control of Mortgagor, or (ii) Mortgagor's failure to comply with the terms of any permit, record keeping requirement, self-monitoring requirement or any similar requirement applicable to Mortgagor's operations at the Property. The foregoing indemnification obligations of Mortgagor shall survive the repayment of the Indebtedness and the release of this Mortgage but shall not, however, apply to any of the foregoing fees, claims, damages, etc., which are directly caused by the Lender after it has taken possession of the Property.

(c) For purposes of this Mortgage, "Hazardous Substances" shall have the meaning ascribed in and shall include those substances listed in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. '9601 et seq. and the regulations promulgated thereunder (as amended from time to time) and includes oil and oil waste as those terms are defined in the Clean Water Act, 33 U.S.C. '1251 et seq. and the regulations promulgated thereunder (as amended from time to time) and the Resource, Conservation and Recovery Act, 42 U.S.C. '6901 et seq., and shall include any other elements or compounds which are contained in any list of hazardous substances adopted by the United States Environmental Protection Agency (the "EPA") and any list of toxic pollutants designated by Congress or the EPA or defined by any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, now existing or at any time hereafter in effect.

(d) If Mortgagor receives any notice of (i) the happening of any event involving the use, spill, release, leak, seepage, discharge or cleanup of any Hazardous Substances, (ii) any complaint, inspection by any governmental agency which lists any noncompliance, order, citation or notice with regard to air emissions, water discharges or any other environmental, health or safety matter affecting Mortgagor or the Property, or (iii) Mortgagor's failure to comply with the terms of any permit, record keeping requirement, self-monitoring requirement or any similar requirement applicable to Mortgagor's operations at the Property (an "Environmental Complaint") from any person or entity (including, without limitation, the EPA), Mortgagor immediately shall (x) notify the Mortgagee orally and in writing of such notice, and (y) promptly take all reasonable actions necessary to remedy the same.

(e) The Mortgagee shall have the right, but not the obligation and without limitation of Mortgagee's rights under this Mortgage, to enter onto the Property or to take such other actions as it deems necessary or advisable to clean up, remove, resolve, or minimize the impact of, or otherwise deal with, any of such Hazardous Substances or Environmental Complaint following receipt of any notice from any person or entity (including, without limitation, the EPA) asserting the existence of any Hazardous Substances or an Environmental Complaint pertaining to the Property or any part thereof which, if true, could result in an order, suit, lien or other action against Mortgagor and/or the Property and/or which, in the sole opinion of Mortgagee, could jeopardize its security under this Mortgage. All reasonable costs and expenses incurred by the Mortgagee in the exercise of any such rights shall be secured by this Mortgage and shall be payable by Mortgagor upon demand.

(f) The Mortgagee shall have the right, in its reasonable discretion, to require Mortgagor to perform periodically (at Mortgagor's expense) at the Property an environmental audit and, if reasonably deemed necessary by the Mortgagee, an environmental risk assessment,

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hazardous waste management practices and/or hazardous waste disposal sites each of which must be satisfactory to the Mortgagee. Each such audit and/or risk assessment must be prepared by an environmental consultant satisfactory to the Mortgagee. Should Mortgagor fail to perform any environmental audit, risk assessment or engage in hazardous waste management practices or install hazardous waste disposal sites within thirty (30) days of the Mortgagee's written request, the Mortgagee shall have the right but not the obligation to retain an environmental consultant to perform such environmental audit or risk assessment. All costs and expenses incurred by the Mortgagee in the exercise of such rights shall be secured by this Mortgage and shall be payable by Mortgagor upon demand or charged to Mortgagor's obligations secured by this Mortgage at the discretion of the Mortgagee.

Section 1.06. Zoning. To the best of Mortgagor's knowledge, the current uses of the Property comply with all applicable zoning, subdivision, and related laws, regulations, and governmental agreements.

ARTICLE II COVENANTS AND AGREEMENTS OF MORTGAGOR

Section 2.01. Payment of Indebtedness and Performance. The Mortgagor will pay, when due, to the Mortgagee the principal of and interest on the Note in accordance with its terms and all other Indebtedness secured hereby, and shall punctually keep and perform each and every term, provision, covenant and agreement contained in the Loan Documents.

Section 2.02. Further Assurances. At any time, and from time to time, upon reasonable request by the Mortgagee, the Mortgagor, at the sole expense of the Mortgagor, will make, execute, deliver and record or cause to be made, executed, delivered and recorded any and all further instruments, certificates, and other documents as may, in the reasonable opinion of the Mortgagee, be necessary or desirable in order to effectuate, complete, or perfect or to continue and preserve the obligation of the Mortgagor under the Note and the lien of this Mortgage, and all modifications, extensions, renewals and other amendments of the same. Upon any failure by the Mortgagor to comply with the terms of this Section 2.02 within ten (10) days after written notice from the Mortgagee, the Mortgagee may, at its option, make, execute and record any and all such instruments, certificates and documents for and in the name of the Mortgagor, and at the sole expense of the Mortgagor, and the Mortgagor hereby irrevocably appoints the Mortgagee as its agent and attorney-in-fact so to do, such appointment being coupled with an interest. The Mortgagee may, at its option, advance the expenses incurred in making, executing and recording any and all such instruments, certificates and documents, and such sums advanced, with interest, will be repaid to the Mortgagee by the Mortgagor as provided in Section 2.23 hereof.

Section 2.03. Insurance. The Mortgagor covenants to keep the Improvements and the Equipment insured for the benefit of the Mortgagee against loss or damage by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, flood and collapse (if either are required by Mortgagee) and smoke and (as, when and to the extent insurance against war risks is obtainable from the United State of America or an agency thereof) against war risks, and when and to the extent required by the Mortgagee, against any other risk insured against by persons operating like properties in the locality of the Land, in such amounts as are from time to time reasonably required by the Mortgagee. Mortgagor shall also maintain or cause to be maintained business interruption and/or loss of "rental value" insurance (during any period after rental payments have commenced on any lease of all or any portion of the Property).

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public liability insurance, and, during any period of construction, repair or restoration to the Improvements, builder's risk and workmen's compensation insurance (covering contractors and subcontractors). Any and all such insurance policies shall be in form, content, amount and insurer reasonably satisfactory to Mortgagee. The Mortgagor shall promptly pay when due any and all premiums on such insurance, and such insurance shall be written in such manner and with such insurers as may be reasonably approved by the Mortgagee. The policies of such insurance and all renewals thereof are hereby assigned to the Mortgagee, as collateral and further security for the Indebtedness, and have attached thereto standard non-contributing, non-reporting mortgagee clauses in favor of and entitling the Mortgagee, without contribution, to collect any and all proceeds payable under such insurance as its interest may appear, all to be in form acceptable to the Mortgagee. The Mortgagor hereby authorizes and empowers the Mortgagee, after direct consultation with Mortgagor (provided there is not then any Event of Default under any of the Loan Documents which remains uncured beyond any applicable notice and cure period), with such power being coupled with an interest, at the option of the Mortgagee, to collect, adjust and compromise any losses or claims under any of such insurance, and, in case of any loss or damage to the Improvements or the Equipment, Mortgagee shall make the insurance proceeds available for the restoration of the Improvements or Equipment affected by such loss or damage, after deducting costs and expenses of collection (including, without limitation, actual attorneys' fees and expenses), subject to the following requirements and conditions:

(a) Mortgagor shall not then be in default under any of the terms, covenants and conditions of the Note, this Mortgage or any other Loan Document beyond any applicable grace and cure period set forth herein or therein, as applicable, and within sixty (60) days of the loss or casualty, the Mortgagor shall notify the Mortgagee of the Mortgagor's intention to perform such restoration;

(b) The Mortgagee shall be given (i) evidence that such Improvements and/or Equipment have been fully restored or (ii) plans and specifications reflecting that, by application of such proceeds to be advanced on a monthly basis by Mortgagee to Mortgagor, they will be fully restored to their condition prior to the damage or destruction, free and clear of all liens, except the lien of this Mortgage;

(c) If and to the extent such insurance proceeds shall be insufficient to fully restore the Improvements or Equipment in the reasonable judgment of Mortgagee and its agents, then the Mortgagor shall promptly invest sufficient funds into the restoration to account for any shortfall. If and to the extent Mortgagor fails to deposit sufficient funds into the restoration, Mortgagor shall deposit with the Mortgagee funds which, together with such proceeds, shall be sufficient to fully restore the Improvements and/or Equipment, such total costs to include (and the Mortgagor to be responsible for paying) all actual fees of Mortgagee's inspecting engineer and any other agents of Mortgagee necessary for such restoration;

(d) If Mortgagor shall fail (i) to proceed promptly to commence and thereafter diligently to continue the restoration of the Improvements and/or Equipment or (ii) within a reasonable time to fully restore the Improvements and/or Equipment, then, in either case, the Mortgagee may, at its option, upon sixty (60) days prior written notice to Mortgagor, either (x) fully restore the Improvements and/or Equipment for and on behalf of Mortgagor and may do any act or thing as agent of Mortgagor necessary or appropriate to that end or (y) apply any proceeds of insurance described above in accordance with the portion of this Section set forth below which governs application of insurance proceeds not being made available for the restoration;

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(e) If the proceeds of insurance exceed the sum of Twenty-Five Thousand Dollars (\$25,000), Mortgagee shall hold the insurance proceeds and any additional deposit required by Mortgagor pursuant to Subparagraph (c) immediately above in escrow and shall disburse the funds in accordance with a construction advance agreement and construction draw schedule acceptable to Mortgagee, and, in all cases, such sums will be only disbursed subject to (i) Mortgagee's receipt and approval of the plans, specifications, contracts for the repair or restoration, evidence of builder's risk and other applicable insurance, building permits, general contract, and other similar items related to the restoration as may be requested by Mortgagee, (ii) receipt of evidence satisfactory to Mortgagee that the amounts to be disbursed are due and owing for work performed, and (iii) receipt of paid invoices and lien waivers for amounts previously paid;

(f) There shall remain sufficient time to complete the restoration of the Improvements and/or Equipment in the reasonable judgment of the Mortgagee and its agents prior to the maturity date of the Note; and

(g) The excess of insurance proceeds over the amount necessary to complete restoration shall be applied as a credit against any portion of the Indebtedness selected by the Mortgagee.

If Mortgagee receives any proceeds of the insurance described above that are not to be made available for the restoration in accordance with the foregoing provisions, Mortgagee, at its option, unless otherwise required as stated above, may apply whatever sums are received either to the repair, restoration and replacement of the damaged or destroyed property, without obligation to see the sums so applied, or to the payment of the Indebtedness in such manner or combination thereof, as it may elect in its sole discretion.

Not less than thirty (30) days prior to the expiration dates of each such policy, the Mortgagor will deliver to the Mortgagee a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment satisfactory to the Mortgagee. In the event of a sale of all or any part of the Property pursuant to the provisions of Section 4.02 of this Mortgage, the Mortgagee shall succeed to all the rights and interests of the Mortgagor, including any right to unearned premiums in and to all such policies of insurance. The Mortgagor will immediately notify the Mortgagee of any cancellation of or change in any insurance policy, and each such policy shall contain the agreement of the insurer that such policy will not be canceled without thirty (30) days' prior written notice to the Mortgagee. If the Mortgagor fails to so insure the Improvements and Equipment or in so delivering to the Mortgagee the policies the Mortgagee may, at its option, effect such insurance from time to time and pay the premiums therefor, and the Mortgagor shall repay the Mortgagee for any premiums so paid, with interest thereon, as provided in Section 2.23 hereof.

Section 2.04. Taxes.

(a) The Mortgagor covenants to promptly pay in full and discharge before delinquency and before any penalty for non-payment attaches thereto (and under protest in the manner required by statute of any thereof which the Mortgagor desires to contest), all taxes, water rents, sewer rents, ground rents, assessments, utility charges (whether public or private) and other governmental or municipal or public or private dues, charges, impositions and levies (all of which are hereinafter collectively referred to as the "Taxes") and any prior liens

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(including federal tax liens) for such Taxes which are or may be levied, imposed or assessed upon the Property or any part thereof or upon the rents, issues, income or profits thereof, whether any or all of the aforementioned be levied directly or indirectly or as excise taxes or as income taxes. Upon payment thereof, the Mortgagor will exhibit to the Mortgagee, upon demand, the receipted bills therefor, prior to the day upon which the same shall become delinquent. If the Mortgagor fails to pay the Taxes at the times or in the manner provided in this paragraph, the Mortgagee may, at its option, pay such Taxes, and the Mortgagor shall pay to the Mortgagee the amount of any Taxes so paid, with interest thereon, as provided in Section 2.23 hereof. At the option of the Mortgagee, such option to be exercisable from time to time after the occurrence of an event of default which remains uncured beyond any applicable notice and cure period, the Mortgagor will deposit with the Mortgagee on the day of each month on which a payment of interest and/or principal is due under the Note one-twelfth of the Taxes, provided that if less than twelve (12) months will elapse from the initiation of such periodic deposits until the date such Taxes are due, the Mortgagor shall deposit with the Mortgagee an amount which, together with the subsequent periodic deposits, will provide sufficient funds necessary to pay the Taxes as and when they become due; if, nevertheless, the deposits should be insufficient to pay the Taxes in full, the Mortgagor will deposit with the Mortgagee the deficiency before the Taxes become due.

(b) In the event of the passage of any state, federal, municipal or other governmental law, ordinance, order, rule or regulation subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of deeds of trust or debts secured by deeds of trust or the manner of collecting any such taxes so as to adversely affect the Mortgagee (including, without limitation, a requirement that internal revenue stamps be affixed to the Note or to this Mortgage) the Mortgagor will promptly pay any such tax. If the Mortgagor fails to make such prompt payment, or if any such state, federal, municipal or other governmental law, order, rule or regulation prohibits the Mortgagor from making such payment or would penalize the Mortgagee if the Mortgagor makes such payment, then the entire unpaid balance of the principal sum secured by this Mortgage and all unpaid interest accrued thereon shall, without notice, immediately become due and payable at the option of the Mortgagee. In no event, however, shall any income taxes of the Mortgagee or franchise taxes of the Mortgagee measured by income, or taxes in lieu of or similar to such income taxes or franchise taxes, or any personal property taxes or similar taxes or assessments of assets be required to be paid by the Mortgagor.

Section 2.05. Maintenance and Repair of the Property. The Mortgagor, at the Mortgagor's sole expense, shall: (a) keep and maintain the Property and each part thereof in good condition (normal wear and tear excepted) and will not commit or suffer waste thereof. (b) keep and maintain the Improvements and the Equipment in good condition, working order and repair. (c) make all necessary or appropriate repairs, replacements and renewals to the Improvements and to the Equipment and additions and betterments thereto so that each part of the Improvements and all of the Equipment shall, at all times, be in good condition, fit and proper for the respective purposes for which they were originally intended, erected, or installed, and (d) keep the Property free from Hazardous Substances. To the extent that proceeds from insurance or the Condemnation Awards are made available to the Mortgagor, the Mortgagor will promptly repair, restore, replace, or rebuild any part of the Property which may be damaged or destroyed by any casualty whatsoever or which may be affected by any taking by eminent domain or alteration of the Property or any part thereof by public or quasi-public authority or corporation.

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Section 2.06. Removal and Alteration of Equipment and Improvements. No Improvements or Equipment now or hereafter covered by the lien and security interest of this Mortgage shall be removed, demolished or materially altered, without the prior written consent of the Mortgagee, which consent shall not be unreasonably withheld, except that the Mortgagor shall have the right, without such consent, to remove and dispose of, free from the lien and security interest of this Mortgage, such Equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal any such Equipment is replaced with other Equipment of value at least equal to that of the replaced Equipment and free from the lien or security interest of any title retention of security agreement or other encumbrance, and by such removal and replacement the Mortgagor shall be deemed to have subjected such Equipment to the lien and security interest of this Mortgage, or (b) such Equipment is sold at fair market value for cash and the net cash proceeds received from such disposition are paid over promptly to the Mortgagee to be applied to the payment of the Indebtedness in the manner and order determined by the Mortgagee.

Section 2.07. Other Liens. Absent the prior written consent of the Mortgagee to the contrary, the Mortgagor shall at all times (a) keep the Property free from all liens, mortgages, security interests, encumbrances and claims of every kind and nature, (b) not permit any lien, mortgage, security interest, encumbrance or claim to accrue or remain on the Property or any part thereof which may be superior to the lien or security interest of this Mortgage, and (c) not permit any lien, mortgage, security interest, encumbrance or claim to accrue or remain on the Property or any part thereof which may be inferior or junior to the lien or security interest of this Mortgage. The Mortgagor shall give the Mortgagee notice of any default in any lien, mortgage, security interest or encumbrance on the Property (whether or not such lien, mortgage, security interest or encumbrance was permitted by the Mortgagee) and notice of any foreclosure or threat of foreclosure of such lien, mortgage, security interest or encumbrance.

Section 2.08. Compliance with Laws. The Mortgagor will comply with and not violate, or will cause to be complied with and not violated, all present and future federal, state, and local laws, statutes, ordinances, rules, regulations, decrees and orders of any governmental or other authority or regulatory body relating to the Property or any part thereof or to the use and operation of the Property or any part thereof.

Section 2.09. Inspection. The Mortgagor will permit the Mortgagee or any person or persons authorized by the Mortgagee to enter and make inspections of the Property or any part thereof at all reasonable times and as often as may be reasonably requested by the Mortgagee.

Section 2.10. Restrictions on Transfer. Mortgagor will not, without the prior written consent of the Mortgagee, transfer (whether voluntary or involuntary and whether on or off record) or contract to transfer all or any part of the Property. For these purposes, a "transfer" of the Property shall include means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser. In the event of any such transfer, whether such transfer is voluntary or involuntary, then a transfer of the Property shall be deemed to have occurred within the meaning of this Section 2.10.

Section 2.11. Restrictive Covenants; Zoning. Without the prior written consent of the Mortgagee, the Mortgagor will not initiate, join in, or consent to any change in any private

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restrictive covenant, easement, zoning ordinance, or other public or private restrictions limiting or defining the uses which may be made of the Property or any part thereof. The Mortgagor will promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the Property, non-compliance with which may affect the security of this Mortgage, or which may impose any duty or obligation upon the Mortgagor or any lessee or other occupant of the Property, or any part thereof, and the Mortgagor shall do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of, or constituting any portion of, the Property.

Section 2.12. Management. The Mortgagor at all times shall provide competent and responsible management and operation of the Property. Any management contract or contracts involving the Property, or any part thereof, in an aggregate amount equal to, or in excess of, Ten Thousand Dollars (\$10,000) must be approved in writing by the Mortgagee prior to the execution of the same and, at the Mortgagee's option, shall be assigned to the Mortgagee.

Section 2.13. Books and Records; Financial Statements.

(a) The Mortgagor will keep and maintain full and accurate records and books administered in accordance with generally accepted accounting principles or federal income tax accounting principals, consistently applied, showing in detail the earnings and expenses of the Mortgagor's business and the operation thereof. The Mortgagor shall permit access by the Mortgagee on five (5) Business Days notice, to such books and records of the Mortgagor during normal business hours and permit the Mortgagee to make copies of such books and records and to audit and examine such books and records (at the cost and expense of Mortgagor) at any reasonable time and as often as the Mortgagee in its sole discretion may deem appropriate. Any such inspection or audit by Mortgagee shall (a) be conducted in a manner which does not unduly disrupt the conduct of Mortgagor's business, (b) apply only to those books and records which are utilized in generating, or which support, any financial statements delivered by Mortgagor to Lender and (c) provided that there has been no Event of Default under this Mortgage or any of the Loan Documents, be conducted no more than one (1) time during any six (6) month period.

(b) The Mortgagor will furnish or cause to be furnished to the Mortgagee, (i) within one hundred twenty (120) days after the end of each fiscal year, balance sheets, statements of income, and retained earnings for the period ended and a statement of changes in the financial position, all in reasonable detail, and all prepared in accordance with GAAP consistently applied and (ii) complete copies of the Mortgagor's federal and state tax returns, including all schedules and attachments thereto, and any filing extension requests, within thirty (30) days after the same are filed with the applicable governmental authorities. The Mortgagor shall provide, or cause to be provided, upon the Mortgagee's request, convenient facilities for the audit and verification of any such documents. In addition, the Mortgagor shall promptly provide, or cause to be promptly provided, to the Mortgagee with such other financial information as the Mortgagee may from time to time reasonably request.

Section 2.14. Condemnation. All Condemnation Awards heretofore or hereafter to be made to the Mortgagor in any taking by eminent domain, or by deed in lieu thereof, are hereby assigned by the Mortgagor to the Mortgagee to the extent of the amounts which are or may become due to Mortgagee under the Loan Documents. The Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute, in its own or the Mortgagor's name, any action

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or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith, with such authorization to be deemed to be coupled with an interest. The Mortgagee shall not settle or compromise any claim in connection with any damage or taking through condemnation without the prior written consent of the Mortgagor, which consent shall not be unreasonably withheld. No settlement for the damages sustained thereby shall be made by the Mortgagor without the Mortgagee's prior written approval thereof. Notwithstanding any taking by eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Property by any public or quasi-public authority or corporation, the Mortgagor will continue to pay the Indebtedness as and when the same shall become due and payable until the Condemnation Awards hereinbefore assigned and granted to the Mortgagee are actually received by the Mortgagee, and any reduction in the principal sum resulting from the application by the Mortgagee of the Condemnation Awards shall be deemed to take effect only on the date of such receipt. All or any part of any Condemnation Awards so received by the Mortgagee may, at the option of the Mortgagee and after deducting Mortgagee's costs of collection, (a) be retained and applied by the Mortgagee as a credit upon any portion, as selected by the Mortgagee, of the Indebtedness secured hereby, notwithstanding the fact that the amount owing thereon may not be then due and payable or that the Indebtedness is otherwise adequately secured, or (b) be paid over wholly or in part to the Mortgagor for the purposes of altering, restoring and rebuilding any part of the Property which may have been altered, damaged or destroyed as a result of any such taking, alteration of grade, or other injury to the Property, or for any other purpose or object satisfactory to the Mortgagee, provided that (i) the Mortgagee shall not be obligated to see to the application of any amount paid over to the Mortgagor, and (ii) the amount so paid over shall not be deemed a payment on any of the indebtedness secured hereby. Notwithstanding anything to the contrary in the foregoing, for so long as there is not then an Event of Default under any of the Loan Documents which remains uncured beyond any applicable notice and cure period, Mortgagee shall permit Mortgagor to jointly participate with Mortgagee to commence any action relating to, or negotiate any settlement or compromise of, any claim in connection with any condemnation provided that any such settlement or compromise shall be subject to Lender's final approval.

If, prior to the receipt by the Mortgagee of such Condemnation Award, the Property or any part thereof shall have been sold pursuant to the provisions of Section 4.02 of this Mortgage, the Mortgagee shall have the right to receive such Condemnation Award to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, and of the actual counsel fees, costs and disbursements incurred by the Mortgagee in connection with the collection of such Condemnation Award. The Mortgagor agrees to execute and deliver, from time to time, upon the request of and without cost to the Mortgagee, such further instruments or documents as may be reasonably requested by the Mortgagee to confirm the grant and assignment to the Mortgagee of any such Condemnation Award.

Section 2.15. Additional Improvements. The Mortgagor will not construct any additional improvements on the Land without the prior written consent of the Mortgagee. The Mortgagor will complete and pay for, within a reasonable time, any permitted structure at any time in the process of construction on the Land. The Mortgagor will construct and erect any permitted improvements on any part of the Land (a) strictly in accordance with all applicable ordinances and statutes and in accordance with the requirements of all regulatory authorities having jurisdiction, (b) entirely on lots or parcels of the Land, (c) so as not to encroach upon any easement or right-of-way or upon the land of others, (d) wholly within the building restriction

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lines however established, and (e) so as not to violate use and other restrictions contained in prior conveyances, zoning ordinances or restrictions.

Section 2.16. Leases.

(a) The Mortgagor does hereby absolutely and irrevocably assign, convey, transfer and set over to Mortgagee all of Mortgagor's right, title, estate and interest in and to any and all leases, rent, income and profits from the Property (collectively, the "Income"). Such assignment shall not impose upon Mortgagee any duty to produce income from the Property. Mortgagee hereby grants to the Mortgagor a license to collect the Income, but not more than one month in advance, and as trustee for the benefit of Mortgagee; provided, however, for so long as no default exists, the Mortgagor may collect and use the Income in any manner not inconsistent with its obligations under the Loan Documents. The license granted hereby shall be revoked automatically upon the occurrence of a default hereunder, but shall be reinstated upon a cure of such default.

(b) All leases, licenses, and rental agreements now or hereafter covering the Property or any part thereof (hereinafter referred to collectively as "leases" and individually as a "lease"), shall be on a standard lease form approved by Mortgagee in advance. The Mortgagor shall not enter into any lease with a prospective tenant without the prior written approval of Mortgagee unless such lease is on the standard lease form approved by Mortgagee with only customary and reasonable changes made at the request of the prospective tenant and containing economic terms that are consistent with the then-market. All leases shall require that tenant give Mortgagee written notice of any default by the landlord under such lease and a reasonable time within which to cure such default prior to the tenant taking any action to remedy such default or to cancel the lease.

(c) All leases shall be subordinate and inferior to the lien of this Mortgage and to all modifications, extensions, renewals, and refinancings hereof, except that from time to time as Mortgagee may request in writing. Mortgagor shall not enter into any lease with a prospective tenant unless such lease shall provide that, and such tenant expressly covenants and agrees therein that, upon the written request of Mortgagee, all rents will be paid directly to Mortgagee, or a person or entity designated by Mortgagee and that in the event of the enforcement by Mortgagee of any of the remedies provided for by law or by this Mortgage or any of the Loan Documents, the lessee under any lease not extinguished (at Mortgagee's option) by a foreclosure of this Mortgage will, upon request of any person succeeding to the interest of Mortgagor in the Premises ("successor in interest"), as the result of said enforcement, automatically attach to such successor in interest, without any change in the terms or other provisions of the respective lease; provided, however, that said successor in interest shall not be (i) bound by any payment of rent or additional rent for more than one (1) month in advance, except payments in the nature of security for the performance by the lessee of its obligations under the lease, but only to the extent such payments have been delivered to such successor in interest, (ii) bound by any amendment or modification (including any agreement providing for early termination or cancellation of the lease) in the lease made without the consent of Mortgagee or any such successor in interest, (iii) liable for damages for any act or omission of any prior lessor, including Mortgagor, or (iv) subject to any offsets or defenses which such lessee might have against any prior lessor, including Mortgagor. Each such lease shall also provide that upon request by said successor in interest, the lessee shall execute and deliver an instrument or instruments confirming its attornment.

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(d) Without the prior written consent of Mortgagee, Mortgagor shall not (i) assign the rents or other payments payable under any lease; (ii) cancel, terminate, or surrender any lease or consent to or accept any such cancellation, termination, or surrender; (iii) materially amend or modify any lease; (iv) receive or accept rent under any lease for more than one (1) month in advance; (v) enter into any new lease that does not comply with Section 2.16(b) hereof; or (vi) receive or accept any rental or security deposit under any lease, unless the same is placed in an escrow account reasonably acceptable to Mortgagee and held and used only for the purpose for which it is received. Any action of Mortgagor in violation of the terms of this Section 2.16(d) shall be void as against Mortgagee in addition to being a default under this Mortgage.

(e) Mortgagor shall enforce all terms and conditions of all leases and shall not permit any default by a tenant thereunder to continue longer than necessary to pursue its remedies. Mortgagor shall perform all of its obligations under and in respect of all leases. In the event of a default by Mortgagor under any such lease, which default, if not corrected, could entitle the tenant to cancel such lease, Mortgagor will give written notice thereof to Mortgagee not later than ten (10) days after the occurrence of said default, or not less than thirty (30) days prior to the time when Mortgagor's default might permit a cancellation of the lease by the tenant, whichever shall be the earlier date. Mortgagee shall have the right, but not obligation, to cure such default if Mortgagor fails to do so within the applicable grace or cure period, if any, specified in the lease between Mortgagor and the tenant. In the event of a default by tenant under a lease, Mortgagor shall give written notice thereof to Mortgagee no later than thirty (30) days after the occurrence of said default, unless such default is cured before the expiration of said sixty (60) day period.

(f) In addition to any other provisions requested by Mortgagee, all leases shall contain a covenant of the tenant to provide on ten (10) business days written notice estoppel certificates confirming the tenant's subordination or attornment, or both, pursuant to Section 2.16(c) hereof; confirming that the rents have been absolutely assigned to Mortgagee and that tenant will pay such rents to Mortgagee or its designee, as so directed by Mortgagee; and certifying, among other things, if Mortgagee or any future mortgagee or purchaser of the Premises shall request, that: (i) all work has been completed and the work and premises are accepted as satisfactory; (ii) the tenant is in full and complete possession, stating the date on which rent commenced to accrue and the date to which it is paid (which should not be more than one month in advance and not in default); (iii) the lease is in full force and effect, and has not been amended, modified, or superseded; (iv) the tenant has received no notice of any sale, transfer, pledge, or assignment of the lease or of the rentals by the landlord (except for the assignment to Mortgagee); (v) the tenant has not advanced any amounts to or on behalf of the landlord under the lease which have not been reimbursed; (vi) the tenant holds no claim against the landlord which might be set off against accruing rentals; and (vii) the tenant understands that the lease has been assigned to Mortgagee as security for a loan to Mortgagor and that rent may not be prepaid nor the lease amended, modified, or superseded without Mortgagee's prior written approval.

(g) Notwithstanding anything in the foregoing, if and to the extent that any lease in existence as of the date hereof covering all or any portion of the Property shall not be in compliance with the terms, provisions and requirements of this Section 2.16., Mortgagor shall cause the tenant(s) under any such lease to enter into a non-disturbance, subordination and attornment agreement, reasonably satisfactory to the Mortgagee.

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Section 2.17. Use of Loan Proceeds. The proceeds of the Note advanced to the Mortgagor shall be employed and used by Mortgagor solely for the legitimate conduct of a business, investment or commercial enterprise, in general, and for the Permitted Purposes (as defined in the Loan Agreement), in particular.

Section 2.18. Estoppel Certificates. Within ten (10) days after any written request by the Mortgagee or a proposed assignee or purchaser of the Note, the Mortgagor shall certify, by a written statement, to the Mortgagee or to any proposed assignee or purchaser of the Note, the then unpaid balance of the Indebtedness (including, but not limited to, the unpaid balance of the principal sum with interest accrued but unpaid) and the existence of any offsets or defenses which exist against the Indebtedness secured hereby, and of such other information pertaining to any of the Loan Documents.

Section 2.19. Additions to Security. All right, title and interest of the Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Property, hereafter acquired by or released to the Mortgagor, or constructed, assembled or placed by the Mortgagor on the Property, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by the Mortgagor, shall become subject to the lien of this Mortgage as full and completely, and with the same effect, as though now owned by the Mortgagor and specifically described in the granting clauses hereof, but at any and all times the Mortgagor will execute and deliver to the Mortgagee, without cost to the Mortgagee, any and all such further assurances, deeds of trust, conveyances or assignments thereof as the Mortgagee may require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage.

Section 2.20. Subrogation. To the extent permitted by law, the Mortgagee shall be subrogated, notwithstanding their release of record, to any mechanics' or vendor's lien or liens, superior titles, mortgages, deeds of trust, liens, encumbrances, rights, equities, and charges of all kinds heretofore or hereafter existing on the Property to the extent that the same are paid or discharged by the Mortgagee whether or not from the proceeds of the Note; provided, however, this Section shall not be deemed or construed to obligate the Mortgagee to pay or discharge the same.

Section 2.21. Security Agreement.

(a) The Mortgagor hereby grants to the Mortgagee a security interest in the Property, and all proceeds and products thereof, including without limitation, all intellectual property, inventory and accounts receivable, under the Uniform Commercial Code as security for: (i) the full and punctual payment of (a) the principal sum and the interest thereon according to the terms of the Note, and (b) all other amounts payable by the Mortgagor to the Mortgagee under this Mortgage; and (ii) the performance of, and compliance with, all of the terms, covenants, conditions, stipulations and agreements contained in the Note, this Mortgage and all other documents executed and delivered in connection with the indebtedness evidenced by the Note. The Mortgagor hereby authorizes the Mortgagee at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements with or without the signature of the Mortgagor, as authorized by applicable law, with respect to the Property or such portions thereof as the Mortgagee may elect. For purposes of such filings, the Mortgagor

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agrees to furnish any information requested by the Mortgagee promptly upon request by the Mortgagee. The Mortgagor also ratifies its authorization for the Mortgagee to have filed any like initial financing statements, amendments thereto and continuation statements, if filed prior to the date of this Mortgage. The Mortgagor hereby irrevocably constitutes and appoints the Mortgagee and any officer or agent of the Mortgagee, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of the Mortgagor or in the Mortgagor's own name to execute in the Mortgagor's name any documents and otherwise to carry out the purposes of this Section 2.21, to the extent that the Mortgagor's authorization above is not sufficient. The Mortgagor hereby ratifies all acts said attorneys-in-fact have lawfully done in the past or shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable.

(b) The Mortgagor shall not cause or permit any change to be made in its name, form, or taxpayer identification number without (i) obtaining the Mortgagee's prior written consent and (ii) if such consent is granted by the Mortgagee, without taking actions required by the Mortgagee for the purpose of perfecting or protecting the lien and security interest of the Mortgagee in the Property. The Mortgagor's principal place of business and chief executive office, and the place where the Mortgagor keeps its books and records, including recorded data of any kind or nature, regardless of the medium or recording, including software, writings, plans, specifications and schematics, has been for the preceding four months (or, if less, the entire period of the existence of the Mortgagor) and shall continue to be the address of the Mortgagor set forth in Section 7.02 of this Mortgage. The Mortgagor shall promptly notify the Mortgagee of any change in its name, business address, form, or taxpayer identification number. If the Mortgagor does not now have a taxpayer identification number and later obtains one, the Mortgagor promptly shall notify the Mortgagee of such taxpayer identification number.

Section 2.22. Right to Perform. If the Mortgagor shall fail to make any payment or perform, observe, or comply with any of the conditions and covenants herein contained, the Mortgagee, without notice or demand upon the Mortgagor, and without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of the Mortgagor, and may enter upon the Property, or any part thereof, for that purpose and take all such action thereon as the Mortgagee may consider necessary or appropriate for such purpose. All such sums so paid or advanced by the Mortgagee and all costs and expenses (including, without limitation, actual attorneys' fees and expenses) so incurred, together with interest thereon, shall be repaid by the Mortgagor to the Mortgagee as provided in Section 2.23 hereof.

Section 2.23. Expenses. If the Mortgagee shall incur or expend any sums, including reasonable attorneys' fees and expenses, whether or not in connection with any action or proceeding, to sustain the lien and/or security interest of this Mortgage or their priority, or to protect or enforce any of their rights hereunder, or to recover any of the Indebtedness hereby secured, or for any title examination or title insurance policy relating to the title to the Property or any part thereof, or for any other purpose set forth in any Section of this Mortgage, or for any other purposes relating to the Indebtedness or the transactions contemplated by any of the Loan Documents, all such sums shall on notice and demand be paid by the Mortgagor, together with interest thereon at the then current interest rate provided in the Note, and shall be a part of the Indebtedness secured by this Mortgage.

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ARTICLE III EVENTS OF DEFAULT

The occurrence of one or more of the following events (herein sometimes referred to as "events of default", or singularly as an "event of default") shall constitute an event of default hereunder, and all such events of default are individually and collectively included in the term "default" as used herein:

Section 3.01. Failure to Pay Principal and Interest. The Mortgagor shall fail to promptly pay any payment of the principal sum or of any interest thereon as and when the same is due and payable in accordance with the terms of the Note, and such failure is not cured within ten (10) days after such payment was due.

Section 3.02. Failure to Pay Other Indebtedness. The Mortgagor shall fail to promptly pay any of the other Indebtedness secured hereby as and when the same shall be due and payable in accordance with the terms hereof or of the Note, and such failure is not cured within ten (10) days after such payment was due.

Section 3.03. Breach of Representations and Warranties. Any representation, warranty, opinion or statement made by the Mortgagor (or counsel for the Mortgagor), or any other person or entity herein or in any of the Loan Documents or any certificate, opinion or other writing executed and delivered in connection therewith, shall prove to have been untrue in any material respect at the time made.

Section 3.04. Failure to Comply with Insurance Provisions. The Mortgagor shall fail to duly and promptly perform, comply with or observe the terms, covenants, conditions and agreements set forth in Section 2.03 hereof.

Section 3.05. Other Defaults. The Mortgagor shall fail to duly and promptly perform, comply with or observe any one or more of the terms, covenants, conditions, agreements and stipulations contained in this Mortgage (other than those expressly referred to elsewhere in this Article III) and such failure is not cured within thirty (30) days after written notice has been given to Mortgagor by the Mortgagee, provided, however, that if such default is not curable within said thirty (30) day period and Mortgagor is diligently pursuing a cure, Mortgagor shall then have an additional sixty (60) days to effect a cure.

Section 3.06. Default Under Other Loan Documents. An event of default shall occur under any of the other Loan Documents and such event of default is not cured within any applicable notice and grace period provided therein.

Section 3.07. Receiver; Bankruptcy. The Mortgagor shall (a) apply for, or consent in writing to, the appointment of a receiver, trustee or liquidator of the Mortgagor or of the Property or of all or substantially all of the Mortgagor's other assets, or (b) file a petition for relief in bankruptcy or admit in writing its inability to pay its debts as they become due, or (c) make a general assignment for the benefit of creditors, or (d) file a petition or an answer seeking a reorganization (other than a reorganization not involving the liabilities of the Mortgagor) or an arrangement with creditors or take advantage of any insolvency law, or (e) file an answer admitting the material allegations of a petition filed against the Mortgagor in any bankruptcy,

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reorganization or insolvency proceeding, or (f) be dissolved as a result of any adversary suit or proceeding.

Section 3.08. Execution; Attachment. (a) Any execution or attachment shall be levied against the Property, or any part thereof, and such execution or attachment shall not be set aside, discharged or stayed within sixty (60) days after the same shall have been levied, or (b) an order, judgment or decree shall be entered by any court of competent jurisdiction on the application of a creditor adjudicating the Mortgagor a bankrupt or insolvent, or appointing a receiver, trustee or liquidator of the Mortgagor or of the Property, or of all or substantially all of the Mortgagor's other assets, and such order, judgment or decree shall continue unstayed and in effect for a period of thirty (30) days or shall not be discharged within ten (10) days after the expiration of any stay thereof.

Section 3.09. Judgment. Unless adequately insured in the opinion of the Mortgagee, the entry of a final judgment for the payment of money involving more than \$25,000.00 against the Mortgagor and the failure by the Mortgagor to discharge or bond to the Mortgagee's satisfaction the same, or cause it to be discharged or so bonded, within sixty (60) days from the date of the order, decree or process under which or pursuant to which such judgment was entered, or to secure a stay of execution pending appeal of such judgment.

Section 3.10. Change in Zoning. Any change in any zoning ordinance or regulation or any other public restriction shall be enacted, adopted or implemented, limiting or defining the uses which may be made of the Property, or any portion thereof, such that the intended use of the Property, as specified in the Loan Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, unless the use of the Property is otherwise excluded from or made permissible under any such change in any zoning ordinance, regulation or public restriction.

Section 3.11. Default Under Other Indebtedness. A default shall occur under the terms of any other indebtedness of the Mortgagor to the Mortgagee, and such default is not cured within any applicable grace period provided therein.

Section 3.12. Material Adverse Change. A material adverse change shall occur regarding the Mortgagor or the Property.

Section 3.13. Cross-Default and Cross Collateral. Mortgagee, in its sole discretion, shall have the right to consider a default, not cured within any applicable notice and cure period, under any promissory note or other evidence of indebtedness or liability for borrowed money, whether now existing or entered into in the future, made by Mortgagee (i) to Mortgagor, (ii) to any entity owned or controlled by the Mortgagor or (iii) which is guaranteed by any of the foregoing parties identified in the preceding clauses (i) through (ii) to be a Default hereunder (as to which any applicable notice and cure period has lapsed), including, without limitation, any loan made to Pistachio Lincoln, LLC. A default in any other agreement, including, without limitation, to the Hedge Agreement (as defined in the Loan Agreement) between the Mortgagor and the Mortgagee, whether previously, simultaneously or hereafter entered into, and whether or not related to this Loan, which default continues beyond any applicable grace or cure period, if any, shall constitute a default hereunder. Any collateral held hereunder may also be held as security for the payment of all obligations, debts and liabilities of the Mortgagor owed to Mortgagee, ascertained or contingent, joint, several or individual, now existing or hereafter

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contracted. The undersigned shall not be entitled to the return of said collateral until all obligations, debts and liabilities of the Mortgagor to Mortgagee have been paid in full. These terms shall be considered self-operative without any need for Mortgagor to execute any further document; provided, however, Mortgagor shall, if requested by Mortgagee, at the expense of Mortgagor, execute any further document or undertaking submitted by Mortgagee in order to further evidence the same.

Notwithstanding anything to the contrary in Sections 3.01 and 3.02 above, Mortgagor shall not have a right to cure any monetary default in the event Mortgagor fails to promptly pay any payment of the principal sum or interest under the Note, or of any other Indebtedness secured hereby, more than one (1) time during any six (6) month period during the term of the Note.

ARTICLE IV

RIGHTS AND REMEDIES ON DEFAULT

If one or more of the events of default set forth in Article III above shall occur, then in each and every such case, the Mortgagee may at any time thereafter exercise any of the following powers, privileges, discretions, rights or remedies:

Section 4.01. Acceleration. Declare (without notice to the Mortgagor other than any notices otherwise required under the terms of Article III, above) the entire unpaid balance of the principal of the Note and all other indebtedness secured hereby to be immediately due and payable, whereupon the same, together with interest accrued thereon and unpaid, shall become due and payable, without presentment, demand, protest or notice of protest or of dishonor, all of which the Mortgagor hereby waives.

Section 4.02. Foreclosure.

(a) In addition to the rights contained in this Article IV, upon the occurrence of an Event of Default, Mortgagee may, at its option, and not limitation of any other rights of Mortgagee hereunder, commence one or more foreclosure proceedings or other proceedings to sell the Property, to sue out forthwith a Writ or Writs of Scire Facias upon this Mortgage, and to proceed thereon to judgment, execution and sale. Prior to commencing foreclosure proceedings pursuant to this Section 4.02, the Mortgagee shall provide notice to the Mortgagor specifying: (i) the Event of Default which has occurred, (ii) the action required to cure such Event of Default, (iii) a date, not less than the appropriate time frame referenced in Article III above, from the effective date of such notice to the Mortgagor, by which such Event of Default must be cured (it being understood and agreed that any cure involving the payment of funds must be made by cash, certified or cashiers funds or wire transfer), and (iv) that the failure to cure such Event of Default on or before the date specified in the notice may result in the Mortgagee commencing foreclosure proceedings pursuant to this Mortgage. Notwithstanding the provisions of the preceding sentence, the Mortgagee shall not be required to provide notice to the Mortgagor with respect to the occurrence of any Event of Default of the same nature more than one (1) time during any six (6) month period of the term of the Loan as a condition to commencing foreclosure proceedings hereunder. The Mortgagee may also proceed under the Uniform Commercial Code as to all or any part of the Property to which the same applies, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. Upon the occurrence of any Event of Default, the

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Mortgagor shall assemble all of such Property and make the same available within the Improvements. Any notification required by Section 9-611 of the Uniform Commercial Code shall be deemed reasonably and properly given if sent in accordance with the Notice provision of this Mortgage.

(b) In connection with any foreclosure, the Mortgagee may procure such title reports, surveys, tax histories and appraisals as it deems necessary, and all costs and expenses incurred in connection therewith shall be payable by the Mortgagor or from the proceeds of sale. In case of any sale under this Mortgage, by virtue of judicial proceedings or otherwise, the Property may be sold as an entirety or in parcels, by one sale or by several sales, as may be deemed by the Mortgagee to be appropriate and without regard to any right of the Mortgagor or any other person to the marshaling of assets. Any sale hereunder may be made at public auction, at such time or times, at such place or places, and upon such terms and conditions and after such previous public notice as the Mortgagee shall deem appropriate and advantageous and as required by law. Upon the terms of such sale being complied with, the Mortgagee shall convey to, and at the cost of, the purchaser or purchasers the interest of the Mortgagor in the Property so sold, free and discharged of and from all estate, title or interest of the Mortgagor, at law or in equity, such purchaser or purchasers being hereby discharged from all liability to see to the application of the purchase money. The proceeds of such sale or sales under this Mortgage shall be held by the Mortgagee and applied as follows: first, to pay all costs, charges and expenses attending the execution of this trust or any sale made as aforesaid, including, but not limited to, an attorneys' fee for the attorneys representing the Mortgagee for conducting the proceedings if without contest, but if legal services be rendered to the Mortgagee in connection with any contested matter in the proceedings, then counsel fees and expenses shall be allowed and paid out of the proceeds of such sale or sales as the court having jurisdiction may deem proper; second, to pay all Indebtedness secured hereby and all interest then due and accrued thereon, which shall include interest through the date of ratification of the auditor's account (if applicable), in such order and manner as the Mortgagee in its sole discretion may determine with respect to any items referenced in clauses (a) or (b); and lastly, to pay the surplus, if any, to the Mortgagor or any person entitled thereto upon surrender and delivery to the purchaser or purchasers of the Property, and less the costs, if any, of obtaining possession.

Section 4.03. Receiver. In the event of a monetary default, as a matter of right and to the extent permitted by law, without notice to the Mortgagor, and without regard to the adequacy of the security, and upon application to a court of competent jurisdiction, the Mortgagee shall be entitled to the immediate appointment of a receiver for all or any part of the Property, and of the rents, income, profits, issues and proceeds thereof and therefrom, whether such receivership be incidental to a proposed sale of the Property or otherwise, and the Mortgagor hereby consents to the appointment of such a receiver. The Mortgagor will pay to the Mortgagee, upon demand, all expenses, including receiver's fees, attorneys' fees, costs and agents' compensation, advanced by the Mortgagee and incurred pursuant to the provisions contained in this Section 4.03; and all such expenses shall be (a) a lien against the Property, (b) added to the Indebtedness secured by this Mortgage, and (c) payable on demand with interest at a rate one percent (1%) in excess of the interest rate provided in the Note from and including the date each such advance is made.

Section 4.04. Entry and Operation. To the extent permitted by law, and with or without the appointment of a receiver, or an application therefor, enter upon, and take possession of (and the Mortgagor shall surrender actual possession of), the Property or any part thereof, without notice to the Mortgagor and without bringing any legal action or proceeding, or, if necessary by

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force, legal proceedings, ejection or otherwise, and may remove and exclude the Mortgagor and its agents and employees and all other persons therefrom, and having and holding the same may make all necessary or proper repairs, replacements and useful or required alterations, additions, betterments or improvements to or upon the same, operate, maintain, control, make secure and preserve the same and receive all earnings, income, profits, rents (including rents accrued and unpaid), and proceeds accruing with respect thereto or any part thereof, such earnings, income, profits, rents and proceeds being hereby assigned to the Mortgagee as additional security for the repayment of the Indebtedness. In so doing, the Mortgagee shall have the right to manage the Property and to carry on the business of the Mortgagor and may exercise all of the rights and powers of the Mortgagor, either in the name of the Mortgagor, or otherwise, including, but without limiting the generality of the foregoing, the right to lease any part of the Property, to cancel, modify, renew or extend any lease or sub-lease of the Property or any part thereof and to complete the construction of any unfinished improvements. The Mortgagee shall be under no liability for or by reason of any such taking of possession, entry, holding, removal, maintaining, operation or management, except for willful misconduct. Any amounts so received by the Mortgagee shall be applied (a) first, to pay all costs and expenses of so entering upon, taking possession of, holding, operating, maintaining, preserving and managing the Property or any part thereof including, but not in limitation of the foregoing, actual compensation to the attorneys, employees or agents of the Mortgagee engaged or employed with regard thereto, (b) second, to pay the cost and expense of all repairs, renewals, replacements, alterations, additions, betterments and improvements to or upon the Property or any part thereof, and (c) the balance, if any, to such part of the Indebtedness as selected by the Mortgagee. The Mortgagor shall pay on demand to the Mortgagee the amount of any deficiency between (a) the amounts so received by the Mortgagee and (b) all moneys paid or advanced and all costs and expenses incurred (including, without limitation, actual attorneys' fees and expenses) by the Mortgagee in exercising the rights provided in this Section, and the same shall bear interest at a rate which is one percent (1%) in excess of the interest rate provided in the Note and shall be a part of the Indebtedness secured hereby. The exercise of the remedies provided in this Section shall not cure or waive any Event of Default or notice of an Event of Default hereunder or invalidate any act done pursuant to such notice, and the enforcement of such remedies, once commenced, shall continue for so long as the Mortgagee shall elect, notwithstanding the fact that the exercise of such remedies may have, for a time, cured the original Event of Default.

Section 4.05. Other Remedies. The Mortgagee shall have the right from time to time to enforce any legal or equitable remedy against the Mortgagor and to sue the Mortgagor for any sums (whether interest, damages for failure to pay principal or any installments thereof, Taxes, or any other sums required to be paid under the terms of this Mortgage, as the same become due), without regard to whether or not the principal secured or any other Indebtedness secured by this Mortgage shall be due, and without prejudice to the right of the Mortgagee thereafter to enforce any appropriate remedy against the Mortgagor, including an action of foreclosure, or any other action, including an action for specific performance, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced. Nothing contained in this Mortgage shall preclude the Mortgagee from exercising or enforcing any rights it may now or hereafter have under or pursuant to any separate instrument or guaranty.

Section 4.06. Uniform Commercial Code. Proceed under the Uniform Commercial Code as to all or any part of the Equipment, and in conjunction therewith to exercise all of the rights, remedies, and powers of a secured party under the Uniform Commercial Code. Upon the occurrence of any event of default hereunder, the Mortgagor shall assemble all of the Equipment

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and make the same available within the Improvements. Any notification required by the Uniform Commercial Code shall be deemed reasonably and properly given if mailed certified mail, return receipt requested, postage prepaid, by the Mortgagee to the Mortgagor at the address specified in Section 7.02 hereof at least ten days before any sale or other disposition of the Equipment, or any portion thereof. Disposition of the Equipment, or any portion thereof, shall be deemed commercially reasonable if made pursuant to a public offering advertised at least twice in a newspaper of general circulation in the community where the Property is located.

Section 4.07. Remedies Cumulative. Each right, power and remedy of the Mortgagee as provided for in this Mortgage or in any of the other Loan Documents shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage or in any of the other Loan Documents, and the exercise or beginning of the exercise by the Mortgagee of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by the Mortgagee of any or all such other rights, powers or remedies.

Section 4.08. No Waiver. No failure or delay by the Mortgagee to insist upon the strict performance of any term, condition, covenant or agreement of this Mortgage or of any of the other Loan Documents, or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such term, condition, covenant or agreement or of any such breach, or preclude the Mortgagee from exercising any such right, power or remedy at any later time or times. By accepting payment after the due date of any amount payable under this Mortgage or under any of the other Loan Documents, the Mortgagee shall not be deemed to waive the right either to require prompt payment when due of all other amounts payable under this Mortgage or under any of the other Loan Documents, or to declare a default for failure to effect such prompt payment of any such other amount. Neither the Mortgagor nor any other person now or hereafter obligated for the payment of the whole or any part of the Indebtedness now or hereafter secured by this Mortgage shall be relieved of such obligation by reason of the failure of the Mortgagee to comply with any request of the Mortgagor or of any other person so obligated to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or of any obligations secured by this Mortgage, or by reason of any agreement or stipulation between any subsequent owner or owners of the Property or any part thereof, or by the Mortgagee extending the time of payment or modifying the terms of the Note or this Mortgage without first having obtained the consent of the Mortgagor or such other person, and in the latter event, the Mortgagor and all such other persons shall continue liable to make such payments according to the terms of any such agreement of extension or modification unless expressly released and discharged in writing by the Mortgagee. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien on the Property, the Mortgagee may release the obligation of any person at any time liable for any of the Indebtedness secured by this Mortgage or any part of the security held for the Indebtedness and may extend the time of payment or otherwise modify the terms of the Note or this Mortgage without, as to the security or the remainder thereof, in anywise impairing or affecting the lien and/or security interest of this Mortgage or the priority of such lien and/or security interest, as security for the payment of the Indebtedness as it may be so extended or modified, over any subordinate lien. The holder of any subordinate lien shall have no right to terminate any lease affecting the Property whether or not such lease be subordinate to this Mortgage. The Mortgagee may resort for the payment of the Indebtedness secured hereby to the Property or to any other security or collateral therefor held by the Mortgagee in such order and manner as the Mortgagee may elect.

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Section 4.09. Setoff. The Mortgagee is authorized at any time and from time to time, without prior notice to the Mortgagor (any such notice being hereby waived by the Mortgagee to the fullest extent permitted by law), to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other indebtedness at any time owing to, the Mortgagee to or for the credit or the account of the Mortgagor, against any and all of the Indebtedness, now or hereafter existing, irrespective of whether or not the Mortgagee shall have made demand under one or both of the Note, this Mortgage or any other Loan Document.

ARTICLE V INTENTIONALLY OMITTED

ARTICLE VI PARTIAL RELEASES

Section 6.01. Release of Lien. The lien of this Mortgage and the other Loan Documents shall be released at the expense of the Mortgagor (including, without limitation, Mortgagee's attorneys' fees) upon payment in full of the Indebtedness and satisfaction and discharge of the Obligations. Additionally, the Mortgagor shall also be solely responsible for paying the costs of recording any such release.

Section 6.02. Effect of Partial Release. The Mortgagee may release any part of the Property from the lien of this Mortgage as provided in Section 6.01, above, without in any manner affecting or impairing the lien or priority of this Mortgage as to the remainder of the Property; and in no event shall the lien of this Mortgage be released in its entirety until such time that the Indebtedness with respect to the Note is paid in full and all of the Mortgagors' Obligations thereunder and under all of the other Loan Documents are completely satisfied and discharged.

ARTICLE VII MISCELLANEOUS

Section 7.01. Payment by Others. Any payment of the Indebtedness or any part thereof made in accordance with the terms of this Mortgage or of the Note by any subsequent owner of the Property, or by any other person whose interest in the Property might be prejudiced in the event of a failure to make such payment, or by any stockholder, officer or director of a corporation which at any time may be liable for such payment or may own or have such an interest in the Property, shall be deemed, as between the Mortgagee and all persons who at any time may be liable as aforesaid or may own or have an interest in the Property, to have been made on behalf of such persons.

Section 7.02. Notices. Unless otherwise provided in this Mortgage, any offer, acceptance, election, approval, consent, certification, request, waiver, notice or other communication required or permitted to be given hereunder (each, a "Notice") shall be in writing and either delivered personally, mailed by certified or registered mail, return receipt requested and postage prepaid, or sent via a nationally recognized overnight courier to the person to whom the Notice is to be given at the address set forth below or at such other address as any person hereafter designates to the other in accordance with the provisions of this Section 7.02. The date on which a Notice shall be deemed received shall be (a) the date of receipt, if personally delivered; (b) on the first (1st) business day following the date on which the Notice is sent, if sent

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via a nationally recognized overnight courier, or (c) on the second (2nd) business day following the date on which the Notice is deposited in the U.S. Mail, if sent by certified or registered mail.

If to Lender: Branch Banking and Trust Company
1909 K Street, NW
Washington, DC 20006
Attention: Christian DeLisle, Vice President

with a copy to: Selzer Gurvitch , Attorneys at Law
Attention: H. Mark Rabin, Esq./Lisa Sincere, Esq.
4416 East West Highway, Fourth Floor
Bethesda, Maryland 20814

If to Mortgagor: Pistachio, LLC
12520 Grey Fox Lane
Potomac, Maryland 20854
Attention: Gurpreet Singh, Manager

with a copy to: Michael A. Alesia & Associates, P.C.
Attention: Michael A. Alesia, Esq.
1701 E. Woodfield Road, Suite 925
Schaumburg, Illinois 60173

or at such other address as the Mortgagor or the Mortgagee shall have furnished to the other in writing, mailed as aforesaid.

Section 7.03. Disclosure of Information. The Mortgagor authorizes the Mortgagee to disclose any information in or relating to the Note, the Indebtedness, and any other matters relating to the Loan Documents (including information received from third persons, information the Mortgagee considered in evaluating the request for the Indebtedness, and information about transactions or experiences between the Mortgagor and the Mortgagee) to any co-maker of the Note (if any), to any party obligated under this Mortgage, to the Mortgagee's existing or future subsidiaries, affiliates, and assigns, to any potential assignee, transferee, or participant, to any credit reporting or similar services, and to any other person as required or permitted by law. Without limiting the generality of the foregoing, the Mortgagee is authorized to answer questions about its credit experiences with the Mortgagor.

Section 7.04. Definitions. Capitalized terms not otherwise defined herein shall have the same meaning assigned to such terms in the Loan Documents. Wherever used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the words "Mortgage" shall mean this Mortgage and any supplement or supplements hereto; the word "person" shall mean "an individual, trust, corporation, partnership, limited liability company, unincorporated association, or any other legal entity;" pronouns of any gender shall include the other genders; and either the singular or plural shall include the other. If the Mortgagor is two or more persons, entities or trusts, the term "Mortgagor" shall also refer to all of the persons, entities and trusts signing this Mortgage as a Mortgagor, and to each of them, and all of them are jointly and severally bound, obligated and liable hereunder. The Mortgagee may release, compromise, modify or settle with any persons comprising the Mortgagor, in whole or in part, without impairing, lessening or affecting the obligations and liabilities of the others of the

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Mortgagor hereunder or under the Note. Any of the acts mentioned aforesaid may be done without the approval or consent of, or notice to, any of the Mortgagor.

Section 7.05. Successors and Assigns. All of the grants, covenants, terms, provisions and conditions herein shall run with the Land and shall apply to, and bind the successors and assigns of the Mortgagor (including any permitted subsequent owner of the Property, or any portion thereof), and inure to the benefit of the Mortgagee and its successors and assigns.

Section 7.06. Amendments. This Mortgage may not be modified or amended except by an agreement, in writing, signed by both the Mortgagor and the Mortgagee.

Section 7.07. Severability. If any clauses or provisions herein contained operate or would prospectively operate to invalidate this Mortgage in whole or in part, such clauses and provisions only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect.

Section 7.08. Headings. The section headings in this Mortgage are for convenience only, and shall not limit or otherwise affect or describe the scope of intent of any of the terms hereof or of any particular section hereof.

Section 7.09. Governing Law. This Mortgage shall be construed, governed and enforced in accordance with the laws in effect from time to time in the State of Illinois, excluding principles of conflicts of law. Each party to this Mortgage waives any right to a trial by jury in any action brought to enforce the terms of this Agreement.

Section 7.10 Enforcement. If Mortgagee seeks to enforce its rights under this Mortgage by legal proceedings, Mortgagor shall pay all costs and expenses incurred by Mortgagee, including without limitation all reasonable attorney's fees.

Section 7.11 **Time of the Essence**. **Time is of the essence with respect to all of the provisions of this Mortgage.**

Section 7.12 Construction. Each party has participated to a significant degree in the drafting and preparation of this Mortgage or has had the opportunity to do so. No provision of this Mortgage shall be construed against any other party on the basis of that party being the "drafter."

Section 7.13 Future Acts. Each party agrees to execute and deliver such documents and perform such acts which are or may become necessary to effectuate and carry out the purposes of this Mortgage.

Section 7.14 Future Advances. Mortgagor covenants and agrees to perform each and every of the Covenants and agreements made by it in the Loan Documents, the terms of which are incorporated herein by this and other references as though fully set forth herein, and the performance of which is secured by the lien hereof.

Section 7.15 Acceleration; Remedies. Notwithstanding anything to the contrary herein, Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to

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acceleration under Section 2.10 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 7.15, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

Section 7.16 Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

Section 7.17 Waiver of Homestead. In accordance with Illinois law, the Mortgagor hereby releases and waives all rights under and by virtue of the Illinois homestead exemption laws.

Section 7.18 Placement of Collateral Protection Insurance. Unless Mortgagor provides Lender with evidence of the insurance coverage required by Mortgagor's agreement with Lender, Lender may purchase insurance at Mortgagor's expense to protect Lender's interests in Mortgagor's collateral. This insurance may, but need not, protect Mortgagor's interests. The coverage that Lender purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the collateral. Mortgagor may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Mortgagor has obtained insurance as required by Mortgagor's and Lender's agreement. If Lender purchases insurance for the collateral, Mortgagor will be responsible for the costs of that insurance, including interest and any other charges Lender may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to Mortgagor's total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance Mortgagor may be able to obtain on its own.

[Signatures Appear on Following Page]

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BB&T

MORTGAGE SIGNATURE PAGE

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed under seal as of the day and year first written above.

WITNESS:

MORTGAGOR:

PISTACHIO, LLC

K. Hecker

By: Gurpreet Singh (SEAL)
Gurpreet Singh, Manager

State of Maryland *
County of Frederick * to wit:

I, Yahouza Boube a Notary Public in and for the aforesaid jurisdiction, do hereby certify that Gurpreet Singh, as Manager of PISTACHIO, LLC, party to the foregoing and annexed instrument, personally appeared before me in said jurisdiction, the said individual being personally well known to me (or satisfactorily proven) as the person named in said instrument, and acknowledged said instrument to be the free act and deed of the said trust.

GIVEN UNDER MY HAND AND SEAL this 18 day of December, 2014.

Yahouza Boube
Notary Public

My Commission Expires: Dec 04 2017

[NOTARIAL SEAL] YAHOUZA BOUBE
Notary Public
Frederick County
Maryland
My Commission Expires Dec 4, 2017

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Proper Title, LLC.
As an Agent for Chicago Title Insurance Company
400 Skokie Blvd. Ste. 380 Northbrook, IL 60062

Commitment Number: PT14_03228APT

SCHEDULE C PROPERTY DESCRIPTION

Property commonly known as:
3728-3730 N. SOUTHPORT
CHICAGO, IL 60613
Cook County

The land referred to in this Commitment is described as follows:

LOTS 12 AND 13 IN BLOCK 2 IN ROOD'S SUBDIVISION IN THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20 TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

14-20-114-033-0000

Property of Cook County Clerk's Office