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Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



2121515009

Doc# 2121515009 Fee \$88.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 08/03/2021 10:18 AM PG: 1 OF 26

The property identified as: PIN: 02-23-313-023-0000

Address:

Street: 250 SOUTH HICKS RD

Street line 2:

City: PALATINE

State: IL

ZIP Code: 60067

Lender: UMPQUA BANK

Borrower: RANCHO PALATINE, LLC

Loan / Mortgage Amount: \$7,500,000.00

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: 9FA7D288-932A-4E5C-A9EA-24C452E13B55

Execution date: 7/30/2021

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*This document prepared by:
After recording return to:*

UMPQUA BANK
PO Box 1580
Roseburg, OR 97470
Attention: Veronica Rubio

Permanent Tax Index No.:
02-23-313-023-0000;
02-23-114-014-0000;
02-23-114-042-0000;
02-23-114-043-0000

Property Address:
250 South Hicks Rd
306 East Helen Rd
560 South Hicks Rd
Palatine, IL 60067

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (this "*Mortgage*") is dated as of July 30, 2021, by and between RANCHO PALATINE, LLC, a Delaware limited liability company ("*Mortgagor*" or "*Borrower*"), with an address of 4370 La Jolla Village Drive, Suite 960, San Diego, CA 92122 and UMPQUA BANK, an Oregon state-chartered bank ("*Lender*" or "*Beneficiary*"), whose mailing address is PO Box 1580 Roseburg, OR 97470.

This Mortgage is a Security Agreement and Financing Statement under Article 9 of the Uniform Commercial Code, with Borrower as Debtor and Lender as Secured Party.

1. GRANT OF SECURITY AND SECURED OBLIGATIONS.

1.1 Grant of Security. In consideration of the loan (the "*Loan*") evidenced by the Note and Loan Agreement (both defined below), Borrower, as mortgagor, hereby mortgages, grants, assigns, remises, releases, warrants and conveys to Lender, its successors and assigns, and grants a security interest in, the following described property, rights and interests

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(referred to collectively herein as the "**Property**"), which Property, rights and interest are hereby pledged primarily and on a parity with the Realty (as defined below) and not secondarily:

1.1.1 The real property (the "**Realty**") described in EXHIBIT A attached hereto, and all existing and future rights to the alleys, streets and roads adjoining or abutting the Realty;

1.1.2 All present and future easements, access, air and development rights, minerals and oil, gas and other hydrocarbon substances, royalties, water, water rights and water stock, and all other rights, hereditaments, privileges, permits, licenses, franchises and appurtenances belonging or in any way appertaining to the Realty;

1.1.3 All present and future buildings, improvements and tenements located on the Realty (the "**Improvements**" and together with the Realty, the "**Project**");

1.1.4 All of Borrower's right, title and interest in and to all present and future fixtures and articles of property attached to, or used or adapted for use in, the ownership, development, construction, operation or maintenance of the Realty and Improvements (whether such items are leased, owned, or subject to any title-retaining or security instrument), including, without limitation, all heating, cooling, air-conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, cleaning, fire prevention and extinguishing, security and access control, cooking, gas, electric and communication fixtures, equipment and apparatus, all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters and furnaces; all ranges, stoves, disposers, refrigerators and other appliances; all escalators and elevators, baths, sinks, cabinets, partitions, mantels, built-in mirrors, window shades, blinds, screens, awnings, storm doors, windows and sash; all carpeting, underpadding, floor covering, paneling, and draperies; and all shrubbery and plants. All such items shall be deemed part of the Realty and not severable wholly or in part without material injury to the freehold;

1.1.5 All present and future rents, revenues, issues, profits and income from the Realty or the Improvements, and all present and future leases and other agreements for the occupancy or use of all or any part of the Realty and Improvements, including, without limitation, all cash or security deposits, advance rentals and deposits or payments of similar nature, and all guarantees of tenants' or occupants' performance under such leases and agreements;

1.1.6 All of Borrower's right, title and interest in or to all present and future tangible personal property used in connection with the ownership, development, operation or maintenance of the Realty and Improvements, including, without limitation, all furniture, furnishings, equipment, and supplies (the "**Personal Property**");

1.1.7 All present and future intangible personal property used in connection with the ownership, development, construction, operation or maintenance of the Realty, Improvements, and Personal Property, including, without limitation, all land use

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entitlements, permits, shoring agreements, licenses and franchises, contract rights (including, without limitation, architectural, engineering, consulting, and management contracts), accounts receivable, escrow accounts, insurance policies, deposits, instruments, documents of title, general intangibles, business records and the exclusive right to the use of Borrower's trade names;

1.1.8 All present and future materials, supplies, and other goods, wherever located, whether in the possession of Borrower, warehouseman, bailee, or any other person, purchased for use in the construction, operation or furnishing of the Improvements, together with all documents, contract rights, and general intangibles relating thereto;

1.1.9 All present or future site plans, plats, architectural plans and specifications, work drawings, surveys, engineering reports, test borings, market surveys, and other work products relating to the Realty and Improvements;

1.1.10 All present or future site-development and construction contracts relating to the Improvements, together with, to the extent transferable by Borrower, all performance, payment, completion or other surety bonds in connection with or related to any such construction contracts;

1.1.11 All present and future contracts and policies of insurance that insure any buildings, structures or improvements on the Realty, including, without limitation, the Improvements, or any fixtures or personal property thereon, including, without limitation, the Personal Property, against casualty and theft, and all monies and proceeds and rights thereto that may become payable by virtue of any insurance contracts or policies;

1.1.12 All of Borrower's right, title and interest in and to the proceeds of any and all condemnation actions now or hereafter affecting the Property;

1.1.13 All of Borrower's right, title and interest in and to any and all units, declarant rights, development rights, and any other rights relating to the Realty or the Improvements, whether now existing or subsequently arising, under any and all laws now existing or later enacted relating to condominiums or under any covenants, conditions, or restrictions governing the Realty;

1.1.14 All of Borrower's right, title and interest in and to any Financial Contract. As used herein, the term "**Financial Contract**" means (a) an agreement (including terms and conditions incorporated by reference therein) that is a rate swap agreement, basis swap, forward rate agreement, commodity swap, commodity option, equity or equity index swap, bond option, interest rate option, foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, or any other similar agreement (including any option to enter into any of the foregoing); (b) any combination of the foregoing; or (c) a master agreement for any of the foregoing together with all supplements thereto, including, without limitation, any and all amounts payable to Borrower, any deposit account or accounts with Lender in the name of Borrower for deposit of payments to Borrower in connection with any Financial Contract, and any and all funds now or hereafter on deposit therein; and

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1.1.15 All products and proceeds of the foregoing.

TO HAVE AND TO HOLD the Premises, unto the Lender, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Event of Default; the Mortgagor hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

Capitalized terms used but not defined herein shall have the meanings given to them in the Loan Agreement.

1.2 Secured Obligations. The following obligations are secured by this Mortgage (collectively the "**Secured Obligations**" or "**Indebtedness**"):

1.2.1 Payment of the sum of SEVEN MILLION FIVE HUNDRED THOUSAND AND 00/100 THS DOLLARS (US \$7,500,000.00) with interest thereon, according to the terms and provisions of a promissory note ("**Note**") of even date, made by Borrower in favor of Lender, including any and all modifications, extensions, renewals and replacements thereof, which Note is due on August , 2024 (the "**Maturity Date**").

1.2.2 Payment of all sums advanced to protect the security of this Mortgage, together with interest thereon as herein provided;

1.2.3 Payment of all other sums that are or that may become owing under the Loan Documents (defined below), or which may be advanced by Lender pursuant to the Loan Documents;

1.2.4 The performance of all other covenants, agreements and obligations of Borrower contained in the Loan Documents; and

1.2.5 All other obligations, debts, and liabilities, plus interest thereon, of Borrower to Lender or its affiliates, arising under any Financial Contracts, including, without limitation, any Cash Settlement Amount or any payments on Early Termination payable by Borrower under any Swap Transaction or Confirmation related to the Note. Capitalized terms used in this subsection 1.2.5 but not otherwise defined in this Mortgage are defined in the *2006 ISDA Definitions* published by the International Swap Dealers Association, Inc. (collectively, the "**Related Indebtedness**").

For purposes of this Mortgage, the term "**Loan Documents**" means the Term Loan Agreement of even date herewith between Borrower and Lender governing the Loan (the "**Loan Agreement**"), the Note, this Mortgage, and all related documents and instruments (except for any guaranties of the Loan and the Unsecured Real Estate Environmental and Access Law Indemnity (the "**Indemnity Agreement**") made by Borrower and any guarantors for the benefit of Lender concurrently herewith), and any and all modifications, extensions, renewals and replacements thereof.

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2. TITLE AND USE.

2.1 Warranty of Title. Borrower covenants and agrees that: (i) Borrower is lawfully seized of the estate hereby conveyed and has full right and power to grant, convey and assign the Property, (ii) the Property is free from liens, encumbrances, exceptions and other charges of any kind whatsoever, except for the exceptions listed in Lender's title insurance policy insuring this Mortgage or exceptions otherwise approved in writing by Lender ("**Permitted Encumbrances**"), (iii) no other liens or encumbrances, whether superior or inferior to this Mortgage, shall be created or suffered to be created by Borrower without the prior written consent of Lender (except as permitted under the Loan Agreement), (iv) to Borrower's knowledge, no default on the part of Borrower or any other person exists under any of the Permitted Encumbrances and all of the Permitted Encumbrances are in full force and effect and in good standing, without modification, (v) complete and current copies of the Permitted Encumbrances have been furnished to Lender, and none of them have been or will be modified by Borrower without Lender's prior written consent, (vi) Borrower shall fully comply with all the terms of the Permitted Encumbrances and shall deliver to Lender a copy of all notices delivered in connection with the Permitted Encumbrances, (vii) Lender has the right to contact the other parties to the Permitted Encumbrances to confirm the status thereof, and Borrower from time to time shall, at the request of Lender, request of such parties a certificate confirming such information regarding the Permitted Encumbrances as Lender may request, and (viii) Borrower shall warrant and defend the Property unto Lender against all claims and demands of any other person whatsoever, subject only to non-delinquent taxes and assessments and the Permitted Encumbrances.

2.2 Non-Agricultural Use. Borrower represents and warrants to Lender that the Property is not used principally or primarily for agricultural or farming purposes.

2.3 Hazardous Substance.

2.3.1 Representations and Warranties. Except as set forth in any environmental report obtained by or provided to Lender in connection with the Loan or as otherwise previously disclosed by Borrower to Lender in writing, Borrower represents and warrants to Lender, to the best of its knowledge, after due inquiry and inspection, that (i) no asbestos exists at the Property except in compliance with applicable laws, (ii) no substance currently designated as a Hazardous Substance is currently being generated, processed, stored, transported, handled or disposed of on or under the Property, except in accordance with all applicable laws, (iii) neither Borrower nor to Borrower's knowledge any other person or entity has ever caused or permitted any substance currently designated as a Hazardous Substance to be generated, processed, stored, transported, handled or disposed of, on, under or in the Property, except in compliance with all applicable laws, (iv) to Borrower's knowledge, there is no actual or alleged violation with respect to the Property of any federal, state or local statute, ordinance, rule, regulation or other law relating to Hazardous Substances, and (v) there is no action or proceeding pending or to Borrower's knowledge threatened before or appealable from any court, quasi-judicial body or administrative agency relating to Hazardous Substances affecting or alleged to be affecting the Property.

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2.3.2 Covenant. Borrower covenants and agrees that Hazardous Substances shall not be generated, processed, stored, transported, handled, or disposed of on the Property by any person or entity, except in accordance with all applicable laws.

2.3.3 Definition. "*Hazardous Substances*" means (a) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in, or otherwise classified pursuant to, any Environmental Law as a "hazardous substance," "hazardous material," "hazardous waste," "extremely hazardous waste," "acutely hazardous waste," "radioactive waste," "infectious waste," "biohazardous waste," "toxic substance," "pollutant," "toxic pollutant," or "contaminant" as well as any other formulation not mentioned herein intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "EP toxicity" or "TCLP toxicity"; (b) petroleum, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) and ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources; (c) asbestos in any form; (d) urea formaldehyde foam insulation; (e) polychlorinated biphenyls (PCBs); (f) radon; and (g) any other chemical, material, or substance, exposure to which (because of its quantity, concentration, or physical or chemical characteristics) is limited or regulated for health and safety reasons by any governmental authority, or which poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. Any reference above to a Law, includes the same as it may be amended from time to time, including the judicial interpretation thereof.

2.3.4 Notification; Cleanup. Borrower shall promptly notify Lender if Borrower becomes aware of (i) any Hazardous Substance problem or liability with respect to the Property, (ii) any actual or alleged violation with respect to the Property of any federal, state or local statute, ordinance, rule, regulation or other law relating to Hazardous Substances, or (iii) any lien or action with respect to any of the foregoing. Borrower shall, at its sole expense, take all actions as may be necessary or advisable for the cleanup of Hazardous Substances with respect to the Property, including, without limitation, all removal, containment and remedial actions in accordance with all applicable laws and in all events, in a manner satisfactory to Lender, and shall further pay or cause to be paid all cleanup, administrative and enforcement costs of governmental agencies if obligated to do so by contract or by law. Notwithstanding the foregoing, Borrower shall not be required to remediate any Hazardous Substances previously disclosed in the report(s) provided or obtained by Lender prior to the closing of the Loan.

2.3.5 Right of Entry. Lender is hereby authorized to enter the Property, including the interior of any structure, at reasonable times, and after reasonable notice (which, in the absence of exigent circumstances, shall mean not less than two (2) business days) for the purpose of inspecting the Property to determine Borrower's compliance with this Section.

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3. BORROWER'S COVENANTS.

3.1 Payment and Performance of Secured Obligations. Borrower shall pay when due all sums that are now or that may become owing under the Note, and shall pay and perform all other Secured Obligations in accordance with their terms.

3.2 Payment of Taxes, Utilities, Liens and Charges.

3.2.1 Taxes and Assessments. Except as the same may otherwise be paid under Section 4, Borrower shall pay or cause Tenant to pay when due, directly to the payee thereof, all taxes and assessments (including, without limitation, non-governmental levies or assessments such as maintenance charges, owner association dues or charges, or fees, levies or charges resulting from covenants, conditions or restrictions) levied, assessed or charged against or with respect to the Property or this Mortgage. Upon request, Borrower shall promptly furnish to Lender all notices of amounts due under this subparagraph and all receipts evidencing such payments.

3.2.2 Utilities. Borrower shall pay, or cause to be paid, when due, all utility charges and assessments for services furnished to the Property.

3.2.3 Labor and Materials. Borrower shall pay when due the claims of all persons supplying labor or materials to or in connection with the Property.

3.2.4 Liens and Charges. Borrower shall promptly discharge any lien, encumbrance, or other charge, whether superior or inferior to this Mortgage, that may be claimed against the Property except for Permitted Encumbrances.

3.2.5 Right to Contest. Notwithstanding anything set forth in this Section 3.2, so long as no Event of Default has occurred hereunder, Borrower shall have the right to contest the amount or validity in whole or in part of any lien, encumbrance or other charge against the Property by appropriate administrative or judicial proceedings conducted in good faith and with due diligence, in which event Borrower, upon written notice to Lender, may defer payment of any such lien, encumbrance or other charge, so long as (i) Borrower has provided Lender with evidence satisfactory to Lender that such proceedings will operate to prevent the sale of the Property or any portion thereof, or the imposition of any penalties on Borrower or the Property; (ii) neither the Property nor any part thereof will, by reason of such postponement or deferment, be in danger of being forfeited or lost; (iii) before the date such lien, encumbrance or other charge becomes delinquent, Borrower shall provide Lender with such security as Lender may require to insure payment thereof and prevent any forfeiture or loss of the Property or any part thereof; and (iv) on a final determination of such contest, which is not appealable or is not being appealed, Borrower shall pay the amount of the lien, encumbrance or other charge if and when due, and prior to the imposition of any penalties or delinquent interest.

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3.3 Insurance.

3.3.1 Coverages Required. Borrower shall keep in effect with respect to the Property the insurance policies in coverage amounts required by the Loan Agreement, or, at Lender's discretion, in other amounts or terms acceptable to Lender.

3.3.2 Application of Insurance Proceeds. In the event of any loss, Borrower shall give prompt written notice thereof to the insurance carrier and Lender. Borrower hereby authorizes Lender as Borrower's attorney-in-fact to make proof of loss, to adjust and compromise any claim, to commence, appear in and prosecute, in Lender's or Borrower's name, any action relating to any claim, and to collect and receive insurance proceeds; *provided, however*, that Lender shall have no obligation to do so. Lender shall apply any insurance proceeds received by it hereunder first to the payment of the costs and expenses incurred in the collection of the proceeds and then, in its absolute discretion and without regard to the adequacy of its security, to:

(a) The payment of the Secured Obligations, whether then due and payable or not. Any such application of proceeds to principal on the Note shall be without imposition of any prepayment fee otherwise payable under the Note, but shall not extend or postpone the due dates of the installment payments under the Note, or change the amounts thereof, or

(b) The reimbursement of Borrower, under Lender's prescribed disbursement control procedures, for the cost of restoration or repair of the Property. Lender may, at its option, condition the reimbursement on Lender's approval of the plans and specifications of the reconstruction, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage completion of construction, application of payments and satisfaction of liens as Lender may reasonably require.

Except to the extent that insurance proceeds are applied to payment of the Secured Obligations, nothing herein contained shall be deemed to excuse Borrower from restoring, repairing, or maintaining the Property, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount.

3.3.3 Availability of Insurance Proceeds for Restoration. Notwithstanding Section 3.3.2 above, Lender shall make insurance proceeds available to Borrower to pay for costs associated with the repair or restoration of the Property, provided the following conditions are satisfied:

(a) There is no Event of Default hereunder nor does any event or condition then exist which, with the giving of notice, the passage of time, or both, will constitute an Event of Default.

(b) Each disbursement of the insurance proceeds shall be made in accordance with Lender's then standard procedures for disbursement of construction loan proceeds.

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(c) Borrower has executed and delivered to Lender such additional security documents and instruments as Lender deems reasonably necessary to continue and perfect Lender's security interest in the Property.

3.3.4 Transfer of Title. If the Property is sold pursuant to Section 8 or if Lender otherwise acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

3.4 Preservation and Maintenance of Property; Right of Entry.

3.4.1 Preservation and Maintenance. Borrower shall (i) not commit or suffer any waste or permit any impairment or deterioration of the Property, (ii) not abandon the Property, (iii) restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (iv) keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon, in good condition and repair and replace fixtures, equipment, machinery and appliances of the Property when necessary to keep such items in good condition and repair, and (v) generally operate and maintain or cause Tenant to operate and maintain the Property in a commercially reasonable manner.

3.4.2 Alterations. None of the Improvements shall be structurally altered, removed or demolished, in whole or in part, without Lender's prior written consent, nor shall any fixture or personal property covered by this Mortgage be removed at any time without like consent unless actually replaced by an article of equal suitability that is owned by Borrower free and clear of any lien or security interest.

3.4.3 Right of Entry. Lender is hereby authorized to enter the Property, including the interior of any structures, at reasonable times and after reasonable notice (which, in the absence of exigent circumstances, shall mean not less than one (1) business day), for the purpose of inspecting the Property to determine Borrower's compliance with this paragraph.

3.5 Parking. If any automobile parking areas included within the Property are taken by condemnation, and before the parking areas are diminished for any other reason, Borrower shall take all actions as are necessary to provide parking facilities in kind, size and location to comply with all governmental zoning and other regulations and all leases. Before making any contract for substitute parking facilities, Borrower shall furnish to Lender satisfactory assurance of completion thereof free of liens and in conformity with all government zoning and other regulations. This Mortgage shall constitute a first lien on all such substitute parking facilities.

3.6 Use of Property. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body, and all other covenants, conditions and

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restrictions applicable to the Property, and pay all fees and charges in connection therewith. Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Mortgage was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

3.7 Condemnation. Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking (including, without limitation, any change in the grade of the Property), whether direct or indirect, of the Property or part thereof or interest therein, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any such condemnation or other taking, and to settle or compromise any claim in connection with such condemnation or other taking. All awards, payments, damages, direct consequential and otherwise, claims, and proceeds thereof, in connection with any such condemnation or other taking, or for conveyances in lieu of condemnation, are hereby assigned to Lender, and all proceeds of any such awards, payments, damages, or claims shall be paid to Lender. Lender shall apply any such proceeds in the manner and upon the terms and conditions set forth in Sections 3.3.2 and 3.3.3 above relating to the application of insurance proceeds.

3.8 Protection of Lender's Security. Borrower shall give notice to Lender of and shall appear in and defend any action or proceeding that may affect the Property, the interests of Lender therein, or the rights or remedies of Lender under the Loan Documents. If any such action or proceeding is commenced, or Borrower fails to perform any obligation under the Loan Documents, Lender may, at their option, make any appearances, disburse any sums, make any entries upon the Property, and take any actions as may be necessary or desirable to (i) protect or enforce the security of this Mortgage, (ii) remedy Borrower's failure to perform its obligations under the Loan Documents (without waiving such default by Borrower), or (iii) otherwise protect Lender's interests. Borrower shall pay all losses, damages, fees, costs, and expenses incurred by Lender in taking such actions, including, without limitation, reasonable legal fees.

3.9 Reimbursement of Lender's Expenses. All amounts disbursed by Lender pursuant to Section 3.8 or any other provision of this Mortgage, with interest thereon, shall be additional indebtedness of Borrower secured by this Mortgage. All such amounts shall be immediately due and payable and bear interest from the date of disbursement at the lesser of the default rate under the Note, or the maximum rate permitted by law.

3.10 Books and Records, Financial Statement. Borrower shall keep and maintain at Borrower's address stated above, or such other place as Lender may approve in writing, books of accounts and records adequate to reflect correctly the operation of the Property, and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination, inspection and copying at any reasonable time by Lender, upon prior notice of not less than one (1) business day.

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4. RESERVES.

4.1 Deposits. If an Event of Default occurs during the term of the Loan, Lender may, at its sole election, require Borrower to establish reserves for the Property as set forth below. Following receipt of notice from Lender that Lender will begin requiring Borrower to establish reserves, Borrower shall deposit with Lender, at the time Borrower makes each monthly payment of principal and interest under the Note, a sum, as estimated by Lender, equal to (i) the taxes and special assessments next due on the Property, and (ii) the premiums that will next become due on insurance policies as may be required under this Mortgage, less all sums already deposited therefor, divided by the number of months to elapse before two (2) months prior to the date when such taxes, special assessments and premiums will become delinquent. Lender may require Borrower to deposit with Lender, in advance, such other sums for other taxes, assessments, premiums, charges and impositions in connection with Borrower or the Property as Lender reasonably deems necessary to protect Lender's interests ("**Other Impositions**"). Such sums for Other Impositions shall be deposited in a lump sum or in periodic installments, at Lender's option. If required by Lender, Borrower shall promptly deliver to Lender all bills and notices with respect to any taxes, assessments, premiums, and Other Impositions. Lender shall not be required to pay Borrower any interest, earnings, or profits on any sums deposited with Lender. All sums deposited with Lender under this Section 4.1 are hereby pledged as security for the Secured Obligations.

4.2 Application of Deposits. All such deposited sums shall be held by Lender and applied in such order as Lender elects to pay such taxes, assessments, premiums, and Other Impositions or, upon any Event of Default, may be applied in whole or in part, to the Secured Obligations. The arrangement provided for in this Section 4 is solely for the added protection of Lender and entails no responsibility on Lender's part beyond the allowing of due credit, without interest, for the sums actually received by it. Upon any assignment of this Mortgage by Lender, any funds on hand shall be turned over to the assignee and any responsibility of Lender with respect thereto shall terminate. Each transfer of the Property in accordance with Section 5 below shall automatically transfer to the transferee all rights of Borrower with respect to any funds deposited hereunder. Upon payment in full of the Secured Obligations, Lender shall promptly refund to Borrower the remaining balance of any deposits then held by Lender.

4.3 Adjustments to Deposits. If the total deposits held by Lender exceeds the amount deemed necessary by Lender to provide for the payment of such taxes, assessments, premiums and Other Impositions, such excess shall, provided there is no Event of Default or any event that would constitute an Event of Default if not cured within the time allowed, be credited by Lender on the next due installment or installments of such deposits. If at any time the total deposits held by Lender are less than the amount deemed necessary by Lender to provide for the payment of such taxes, assessments, premiums and Other Impositions, Borrower shall promptly deposit the deficiency with Lender after receipt of written demand from Lender.

5. RESTRICTIONS ON TRANSFER OR ENCUMBRANCE. Except as otherwise explicitly authorized herein or in any other Loan Document, neither the Property nor any part thereof or interest therein shall be encumbered, conveyed, or otherwise transferred by Borrower; nor shall there be any change in the following without Lender's prior written consent:

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(i) the ownership or control of any of Borrower's stock if Borrower is a corporation, (ii) the ownership or control of any general partnership interest in Borrower if Borrower is a partnership, (iii) the ownership or control of any member of Borrower that is not otherwise a natural person or persons, except as set forth in the Loan Agreement. Any such action without Lender's prior written consent shall be deemed to increase the risk of Lender, and shall constitute an immediate Event of Default.

6. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.

6.1 Grant to Lender. This Mortgage constitutes a security agreement pursuant to the Uniform Commercial Code with respect to (a) any of the Property that, under applicable law, is not real property or effectively made part of the real property by the provisions of this Mortgage; and (b) any and all other property now or hereafter described on any Uniform Commercial Code Financing Statement naming Borrower as Debtor and Lender as Secured Party and affecting property in any way connected with the use and enjoyment of the Property (which shall thereafter be included within the definition of "Property") for purposes of this Mortgage. Borrower hereby grants Lender a security interest in all property described in clauses (a) and (b) above as security for the Secured Obligations. Borrower and Lender agree, however, that neither the foregoing grant of a security interest nor the filing of any such financing statement shall be construed as limiting the parties' stated intention that everything used in connection with the production of income from the Property, or adapted for use therein, or which is described or reflected in this Mortgage, is and at all times shall be regarded as part of the Realty.

6.2 Lender's Rights and Remedies. Borrower hereby authorizes Lender to file one or more financing statements, continuation statements, financing statement amendments, and such other documents as Lender may from time to time require to perfect and continue the perfection of Lender's security interest in the Property. Borrower shall pay all fees and costs that Lender may incur in filing such documents in public offices and in obtaining such record searches as Lender may reasonably require. With respect to the property subject to the foregoing security interest, Lender shall have all the rights and remedies (i) of a secured party under the Uniform Commercial Code, (ii) provided herein, including, without limitation, the right to cause such Property to be sold under the power of sale granted by this Mortgage, and (iii) provided by law. In exercising its remedies, Lender may proceed against the items of real property and any items of personal property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies. Upon demand by Lender following an Event of Default hereunder, Borrower shall assemble any items of personal property and make them available to Lender at the Realty. Lender shall give Borrower at least ten (10) days' prior written notice of the time and place of any public sale or other disposition of such Property or of the time of or after which any private sale or any other intended disposition is to be made. Any person permitted by law to purchase at any such sale may do so. Such Property may be sold at any one or more public or private sales as permitted by applicable law.

6.3 Mortgagor Representations. Mortgagor represents and warrants that: (i) the Mortgagor is the record owner of the Property; (ii) the Mortgagor's chief executive office is located in the State of California; (iii) the Mortgagor's state of formation is the State of

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Delaware; (iv) the Mortgagor's exact legal name is as set forth on Page 1 of this Mortgage; and (v) the Mortgagor's organizational identification number is 87-1108018.

7. ASSIGNMENT OF RENTS AND LEASES; LEASES OF PROPERTY; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.

7.1 Lender's Consent. Borrower shall not enter into any lease for the Property without the express consent of Lender, as provided in the Loan Agreement. Notwithstanding the foregoing, however, any and all Leases (defined below), whether or not entered into with the consent of Lender, shall be subject to the provisions of this Section 7.

7.2 Assignment of Rents and Leases. As part of the consideration for the Secured Obligations, and not as additional security therefor, to the extent permitted by law, Borrower hereby absolutely and unconditionally assigns and transfers to Lender all right, title and interest of Borrower in and to: (a) any and all present and future leases, subleases, and other agreements for the occupancy or use of all or any part of the Property, and any and all extensions, renewals and replacements thereof (the "**Leases**"); (b) all cash or security deposits, advance rentals and deposits of a similar nature under the Leases; (c) any and all guarantees of tenants' or occupants' performances under any and all Leases; and (d) all rents, issues, profits and revenues (the "**Rents**") now due or that may become due or to which Borrower may now or shall hereafter become entitled or may demand or claim (including Rents coming due during any redemption period), arising or issuing from or out of any and all Leases, including, without limitation, minimum, additional, percentage and deficiency rents and liquidated damages.

7.3 Collection of Funds. Prior to any Event of Default hereunder, Borrower shall have a license to, and shall, collect and receive all Rents of the Property. Upon delivery of written notice by Lender to Borrower of an Event of Default hereunder and stating that Lender exercises its rights to the Rents, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all Rents from the Property as the same become due and payable, including, without limitation, Rents then due and unpaid, and all such Rents shall immediately upon delivery of such notice be held by Borrower as trustee for the benefit of Lender only. Upon delivery of such written notice by Lender, Borrower hereby agrees to direct each tenant or occupant of the Property to pay all Rents to Lender on Lender's written demand therefor, without any liability on the part of said tenant or occupant to inquire further as to the existence of a default by Borrower. Borrower hereby authorizes Lender, as Borrower's attorney-in-fact, to make such direction to tenants and occupants upon Borrower's failure to do so as required herein. Payments made to Lender by tenants or occupants shall, as to such tenants and occupants, be in discharge of the payors' obligations to Borrower. Lender may exercise, in Lender's or Borrower's name, all rights and remedies available to Borrower with respect to collection of Rents. Nothing herein shall be construed as obligating Lender to perform any of Borrower's obligations under any of the Leases.

7.4 Borrower's Representations and Warranties. Borrower hereby represents and warrants to Lender that Borrower has not executed and will not execute any other assignment of the Leases or Rents, that Borrower has not performed and will not perform any acts

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and has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this Section 7, and that at the time of execution of this Mortgage there has been no anticipation or prepayment of any of the Rents of the Property for more than one (1) month prior to the due dates thereof. Borrower shall execute and deliver to Lender such further assignments of rents and leases of the Property as Lender may from time to time request.

7.5 Leases of the Property. Borrower shall comply with and observe Borrower's obligations as landlord under all Leases and will do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense, or set off. At Lender's request, Borrower shall furnish Lender with executed copies of all Leases now existing or hereunder made and all Leases hereafter entered into will be on a form and in substance satisfactory to Lender. All new Leases will specifically provide that the tenant attorns to any person succeeding to the interest of Borrower upon any foreclosure of this Mortgage or conveyance in lieu thereof; such attornment shall be in such form as Lender may approve and shall provide that tenant shall not have the right of set off or defense to payment of rents for any event or act that occurred prior to such successor obtaining title to Borrower's interest except to the extent such event or act is continuing at the time such successor obtains such title. Borrower shall use commercially reasonable efforts to cause all commercial tenants to execute such further evidences of attornment as Lender may from time to time request. Without Lender's written consent, Borrower shall not (i) collect or accept payment of any Rents more than one (1) month prior to the due dates thereof; (ii) modify, surrender or terminate any commercial Lease; (iii) waive, discharge, release or modify the obligations of any tenant or other occupant of the Property under any Lease; or (iv) request or consent to the subordination of any Lease to any lien subordinate to this Mortgage, except as set forth in the Loan Agreement.

7.6 Lender in Possession; Appointment of Receiver. Upon any Event of Default hereunder, Lender may, to the extent permitted by law, in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof in the same manner and to the same extent as Borrower, including, without limitation, the execution, enforcement, cancellation and modification of Leases, the collection of all Rents of the Property, the removal and eviction of tenants and other occupants, the making of alterations and repairs to the Property, and the execution and termination of contracts providing for management or maintenance of the Property, all on such terms as are deemed best by Lender to protect the security of this Mortgage. Following an Event of Default hereunder, Lender shall be entitled (regardless of the adequacy of Lender's security) to the appointment of a receiver, and Borrower hereby irrevocably consents to the appointment of a receiver for the Property or any portion thereof. To the fullest extent permitted by applicable law, the receiver may serve without bond and may be Lender or an employee of Lender. The receiver shall have, in addition to all the rights and powers customarily given to and exercised by such receivers, all the rights and powers granted to Lender in this Section 7. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

7.7 Application of Rents. All Rents collected subsequent to delivery of written notice by Lender to Borrower of an Event of Default hereunder shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the Rents,

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including, without limitation, reasonable attorneys' fees, receiver's fees, premiums on receiver's bonds, costs of maintenance and repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Borrower under the Leases, and then to the Secured Obligations.

7.8 Deficiencies. To the extent, if any, that the costs of taking control of and managing the Property, collecting the Rents, and discharging obligations and liabilities of Borrower under the Leases, exceed the Rents of the Property, the excess sums expended for such purposes shall be indebtedness secured by this Mortgage. Such excess sums shall be payable upon demand by Lender and shall bear interest from the date of disbursement at the greater of the default rate under the Note, or the maximum rate permitted by law.

7.9 Lender Not Mortgagee in Possession. Nothing herein shall constitute Lender a "mortgagee in possession" prior to its actual entry upon and taking possession of the Property. Entry upon and taking possession by a receiver shall not constitute possession by Lender.

7.10 Lender Not Responsible. Under no circumstances shall Lender have any duty to produce Rents from the Property. Regardless of whether or not Lender, in person or by agent, takes actual possession of the Property, Lender is not and shall not be (i) responsible for performing any of the obligations of the lessor under any Lease; (ii) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or (iii) liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it, except for such matters as may arise from the willful misconduct, gross negligence, or bad faith of Lender.

7.11 Enforcement. Lender may enforce this assignment without first resorting to or exhausting any security or collateral for the Secured Obligations.

8. EVENTS OF DEFAULT.

8.1 Events of Default. Any one or more of the following is an "Event of Default":

8.1.1 Borrower fails to make any payment under the Note, this Deed of Trust, or any of the other Loan Documents to which it is a party when due;

8.1.2 There is a default under any of the Permitted Exceptions, if not cured within any cure period given in the Permitted Exceptions;

8.1.3 There is an Event of Default as defined in the Loan Agreement or any of the other Loan Documents;

8.1.4 There is an Event of Default under the Indemnity Agreement or the Guaranty; or

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8.1.5 Borrower fails to perform any other covenant, agreement or obligation under this Mortgage or any of the other Loan Documents to which it is a party, if not cured within the time allowed.

8.2 Acceleration Upon Default; Additional Remedies. Upon any Event of Default (following the applicable notice period set forth in Section 8.1 above, if any), Lender may, at its option and without notice to or demand upon Borrower, exercise any one or more of the following actions: (a) declare all the Secured Obligations immediately due and payable; (b) bring a court action to enforce the provisions of this Mortgage or any of the other Loan Documents; (c) foreclose this Mortgage; (d) cause any or all of the Property to be sold under the power of sale granted by this Mortgage in any manner permitted by applicable law; (e) elect to exercise its rights with respect to the Leases and the Rents; (f) exercise any or all of the other rights and remedies under this Mortgage and the other Loan Documents; and/or (g) exercise any other right or remedy available under law or in equity. To the extent permitted by law, every right and remedy provided in this Mortgage or afforded by law or equity or any other agreement between Lender and Borrower may be exercised concurrently, independently or successively, in any order whatsoever. Lender may exercise any of its rights and remedies at its option without regard to the adequacy of its security.

8.3 Foreclosure; Expense of Litigation.

8.3.1 When all or any part of the Secured Obligations shall become due, whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereof for such Secured Obligations or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents in accordance with the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15-110) *et seq.*, Illinois Compiled Statutes) (as may be amended from time to time, the "Act"). In the event of a foreclosure sale, the Lender is hereby authorized, without the consent of the Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as the Lender may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

8.3.2 In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of the Lender for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as the Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this section and such other expenses and fees as may be incurred in the enforcement of the Mortgagor's obligations hereunder, the protection of said Property and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by the Lender in any litigation or proceeding affecting this Mortgage, the Note, or the Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable

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by the Mortgagor, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

8.4 Application of Sale Proceeds. The proceeds of any foreclosure sale of the Property shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as the Lender may determine in its sole and absolute discretion.

8.5 Waiver of Order of Sale and Marshalling. To the extent permitted by law, Lender shall have the right to determine the order in which any or all portions of the secured indebtedness are satisfied from the proceeds realized upon the exercise of any remedies provided herein. Borrower, any party who consents to this Mortgage, and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof, hereby waives any and all right to require marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein, or to direct the order in which any of the Property will be sold in the event of any sale under this Mortgage.

8.6 Non-Waiver of Defaults. The entering upon and taking possession of the Property, the collection of Rents or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof as herein provided, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

8.7 Expenses During Redemption Period. If this Mortgage is foreclosed and the Property sold at a foreclosure sale, the purchaser may during any redemption period allowed, make such repairs or alterations to the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the greater of the default rate under the Note, or the maximum rate permitted by law, shall be added to and become a part of the amount required to be paid for redemption from such sale.

8.8 Foreclosure Subject to Tenancies. Lender shall have the right at its option to foreclose this Mortgage subject to the rights of any tenant or tenants of the Property.

8.9 Early Payment Following Default. If any Event of Default has occurred, any tender of payment of the indebtedness secured hereby at any time prior to or at a judicial or non-judicial foreclosure sale of the Property by Borrower, or anyone on behalf of Borrower, shall include all amounts due and owing under any Financial Contract as a result of such prepayment.

8.10 Compliance with Illinois Mortgage Foreclosure Law.

8.10.1 If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

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8.10.2 If any provision of this Mortgage shall grant to the Lender (including the Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 7.6 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in the Lender or in such receiver under the Act in the absence of said provision, the Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

8.10.3 Without limiting the generality of the foregoing, all expenses incurred by the Lender which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated herein, shall be added to the Indebtedness and/or by the judgment of foreclosure.

8.11 Uniform Commercial Code Remedies. Lender may exercise any or all of the remedies granted to a secured party under the Uniform Commercial Code in the state where the Property is located.

9. GENERAL.

9.1 No Offset. The obligations of Borrower to timely pay and perform all obligations under the Note, this Mortgage, and the other Loan Documents shall be absolute and unconditional and shall not be affected by any event or circumstance, including, without limitation, any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or any other right that Borrower or any guarantor may have or claim against Lender or any other person or entity. The foregoing shall not constitute a waiver of any claim or demand that Borrower or any guarantor may have in damages or otherwise against Lender or any other person or entity, so long as Borrower maintains a separate action thereon.

9.2 Application of Payments. Except as applicable law or this Mortgage may otherwise provide, all payments received by Lender under the Note or this Mortgage shall be applied by Lender in the following order of priority: (a) Lender's expenses incurred in any efforts to enforce any terms of this Mortgage; (b) interest payable on advances made to protect the security of this Mortgage; (c) principal of such advances; (d) amounts payable to Lender by Borrower under Section 4 for any reserves required by Lender following an Event of Default; (e) interest and late charges payable on the Note; (f) principal of the Note; and (g) any other Secured Obligations in such order as Lender, at its option, may determine; *provided, however*, that Lender may, at its option, apply any such payments received to interest on or principal of the Note prior to applying such payments to interest on and principal of advances made to protect the security of this Mortgage.

9.3 Release Upon Payment and Discharge of Mortgagor's Obligations. The Lender shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all Indebtedness, including payment of all reasonable expenses incurred by the Lender in connection with the execution of such release.

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9.4 Lender's Powers. Without affecting the liability of any person for payment or performance of the Secured Obligations or any of Lender's rights or remedies, Lender, at its option, may extend the time for payment of the indebtedness secured hereby or any part thereof, reduce payment thereon, release anyone liable on any of the indebtedness secured hereby, accept a renewal note or notes therefor, modify the terms and time of payment of the indebtedness, release the lien of this Mortgage on any part of the Property, take or release other or additional security, release or reconvey or cause to be released or reconveyed all or any part of the Property, or consent to the making of any map or plat of the Property, consent to the granting of any easement or creating any restriction on the Property, or join in any subordination or other agreement affecting this Mortgage or the lien or charge hereof. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and reasonable attorneys' fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.

9.5 Subrogation. Lender shall be subrogated to the liens of all encumbrances, whether released of record or not, that are discharged in whole or in part by the proceeds of the Note.

9.6 Limitation on Interest and Charges. The interest, fees, and charges under the Loan Documents shall not exceed the maximum amounts permitted by any applicable law. If any such interest, fee or charge exceeds the maximum, such excess sums shall be construed as having been immediately applied by Lender to the principal balance of the Note when received.

9.7 Additional Documents; Power of Attorney. Borrower, from time to time, shall execute, acknowledge and deliver to Lender upon request, and hereby irrevocably appoints Lender its attorney-in-fact to execute, acknowledge, deliver and if appropriate file and record, such security agreements, assignments for security purposes, absolute assignments, financing statements, affidavits, certificates and other documents, in form and substance satisfactory to Lender, as Lender may request in order to perfect, preserve, continue, extend or maintain the assignments herein contained, the lien and security interest under this Mortgage, and the priority thereof. Borrower shall pay to Lender upon request therefor all costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document.

9.8 Waiver of Statute of Limitations. To the full extent Borrower may do so, Borrower hereby waives the right to assert any statute of limitations as a defense to the enforcement of the lien of this Mortgage or to any action brought to enforce the Note or any other obligation secured by this Mortgage.

9.9 Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy, and no waiver by Lender of any particular default shall constitute a waiver of any other default or of any similar default in the future. Without limiting the generality of the foregoing, the acceptance by Lender of payment of any sum secured by this Mortgage after the due date thereof shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a

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default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage, nor shall Lender's receipt of any awards, proceeds or damages under Sections 3.3 or 3.7 hereof operate to cure or waive any default in payment of sums secured by this Mortgage.

9.10 Modifications and Waivers.

9.10.1 This Mortgage cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge, or termination is sought.

9.10.2 The Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

(a) The Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15-1601 or other applicable law or replacement statutes; and

(b) The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power, remedy herein or otherwise granted or delegated to the Lender but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted.

9.11 Notice. Any notice to Borrower under this Mortgage shall be to the address noted above or such other address as may be designated by Borrower in writing so long as such notice is given in accordance with the notice provisions in the Loan Agreement.

9.12 Financial Contracts. For purposes hereof, all obligations of Borrower to Lender under any and all Financial Contracts between Borrower and Lender or its affiliates and any indebtedness or obligation contained therein or evidenced thereby shall be considered an obligation of Borrower secured hereby.

9.13 Governing Law; Severability; Captions. This Mortgage shall be governed by the laws of the State of California, without regard to that state's choice of law rules,

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except that the laws of the State of Illinois shall apply to the creation, validity, performance, perfection, realization and priority of the liens and security interests created by this Mortgage, and to the exercise of remedies by Lender that pertain to the enforcement of this Mortgage. If any provision or clause of this Mortgage conflicts with applicable law, such conflicts shall not affect other provisions or clauses hereof that can be given effect without the conflicting provision, and to this end the provisions hereof are declared to be severable. The captions and headings of the paragraphs and articles of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

9.14 WAIVER OF TRIAL BY JURY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH OF BORROWER AND LENDER (BY ITS ACCEPTANCE HEREOF) (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS MORTGAGE OR THE RELATIONSHIP BETWEEN THE PARTIES AS BORROWER AND LENDER THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH OF BORROWER AND LENDER, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

9.15 Maximum Indebtedness. Notwithstanding anything contained herein to the contrary, in no event shall the Secured Obligations exceed an amount equal to \$15,000,000.00; provided, however, in no event shall the Lender be obligated to advance funds in excess of the face amount of the Note.

9.16 Definitions. As used herein: the term "*Borrower*" means the Mortgagor herein named, together with any subsequent owner of the Property or any part thereof or interest therein; and the term "*Lender*" means the Lender herein named, together with any subsequent owner or holder of the Note or any interest therein, including pledgees, assignees and participants.

9.17 Successors and Assigns; Joint and Several Liability; Agents. This Mortgage shall bind and inure to the benefit of the parties hereto and their respective heirs, devisees, legatees, administrators, executors, successors and assigns, subject to the provisions of Section 5 hereof. In exercising any rights hereunder or taking actions provided for herein, Lender may act through their respective employees, agents or independent contractors as authorized by Lender.

9.18 Time. Time is of the essence in connection with all obligations of Borrower herein.

9.19 Estoppel Certificate. Borrower shall, within ten (10) days of a written request from Lender and at no charge to Lender, furnish Lender or any other party designated by Lender with a written statement, duly acknowledged, setting forth the sums secured hereby and any right of set-off, counterclaim or other defense that may exist with regard to the Secured Obligations.

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9.20 Attorney Fees and Expenses. The undersigned agrees to pay on demand all of Lender's costs and expenses, including Lender's attorney fees and legal expenses, incurred in connection with enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement and any of the Loan Documents. Lender may also use attorneys who are salaried employees of Lender to enforce this Agreement. The undersigned shall pay all costs and expenses of all such enforcement. In the event suit, action or other legal proceeding is brought to interpret or enforce this Agreement, the undersigned agrees to pay all additional sums as the referee or court may adjudge reasonable as Lender's costs, disbursements, and attorney fees at hearing, trial, and on any and all appeals. As used in this paragraph "Agreement" means the loan agreement, promissory note, guaranty, security agreement, or other agreement, document, or instrument in which this paragraph is found, even if this document is also described by another name. Whether or not a court action is filed, all reasonable attorney fees and expenses Lender incurs in protecting its interests and/or enforcing this Agreement shall become part of the Indebtedness evidenced or secured by this Agreement, shall bear interest at the highest applicable rate under the promissory note or credit agreement, and shall be paid to Lender by the other party or parties signing this Agreement on demand. The attorney fees and expenses covered by this paragraph include without limitation, all of Lender's attorney fees (including the fees charged by Lender's in-house attorneys, calculated at hourly rates charged by attorneys in private practice with comparable skill and experience), Lender's fees and expenses for bankruptcy proceedings (including efforts to modify, vacate, or obtain relief from any automatic stay), fees and expenses for Lender's post-judgment collection activities, Lender's cost of searching lien records, searching public record databases, on-line computer legal research, title reports, surveyor reports, appraisal reports, collateral inspection reports, title insurance, and bonds issued to protect Lender's collateral, all to the fullest extent allowed by law.

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9.21 NO ORAL AGREEMENTS. THE RIGHTS AND OBLIGATIONS OF BORROWER AND LENDER SHALL BE DETERMINED SOLELY FROM THE WRITTEN LOAN DOCUMENTS, AND ANY PRIOR ORAL OR WRITTEN AGREEMENTS BETWEEN LENDER AND BORROWER CONCERNING THE SUBJECT MATTER HEREOF AND OF THE OTHER LOAN DOCUMENTS ARE SUPERSEDED BY AND MERGED INTO THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS. THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS MAY NOT BE VARIED BY ANY ORAL AGREEMENTS OR DISCUSSIONS THAT OCCUR BEFORE, CONTEMPORANEOUSLY WITH, OR SUBSEQUENT TO THE EXECUTION OF THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS. THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENTS BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

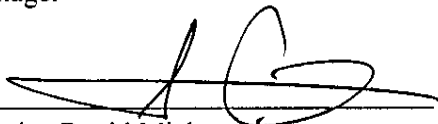
DATED as of the day and year first written above.

BORROWER:

RANCHO PALATINE, LLC,
a Delaware limited liability company

By Mich2 HF Manager, LLC,
a Delaware limited liability company
Its Manager

By Mich Commercial I, LLC,
a Delaware limited liability company
Its Manager

By 
Carlos David Michan
Its Manager

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ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego

On JULY 28, 2021 before me, SHAINA M. OUZAN, A NOTARY PUBLIC
(insert name and title of the officer)

personally appeared CARLOS DAVID MICHAEL
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]

(Seal)



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Exhibit A

LEGAL DESCRIPTION OF THE REALTY

250 South Hicks Road, Palatine, IL 60067 and 306 East Helen Road, Palatine, IL 60067

PARCEL 1:

THE NORTH 80.00 FEET AND THE EAST 1.82 FEET OF THE WEST 250.0 FEET OF THE EAST 670.0 FEET OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTH LINE OF ARTHUR T. MCINTOSH & COMPANY'S PALATINE LIGHT INDUSTRIAL DISTRICT, BEING A SUBDIVISION OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 23 AND WEST OF THE WEST LINE OF HICKS ROAD, ACCORDING TO THE PLAT OF DEDICATION RECORDED JANUARY 30, 1933 AS DOCUMENT 11194100 (EXCEPT THE SOUTH 35 FEET TAKEN FOR HELLEN ROAD), IN COOK COUNTY, ILLINOIS

PARCEL 2:

THE EAST 420 FEET OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTH LINE OF ARTHUR T. MCINTOSH COMPANY'S PALATINE LIGHT INDUSTRIAL DISTRICT, BEING A SUBDIVISION IN THE EAST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 23 AND WEST OF THE WEST LINE OF HICKS ROAD ACCORDING TO THE PLAT OF DEDICATION RECORDED JANUARY 30, 1933 AS DOCUMENT NUMBER 11194100, (EXCEPT THE SOUTH 35 FEET TAKEN FOR HELLEN ROAD) IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THE WEST 248.18 FEET OF THE EAST 670 FEET (EXCEPT THE NORTH 80.00 FEET THEREOF) OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTH LINE OF ARTHUR T. MCINTOSH AND COMPANY'S PALATINE LIGHT INDUSTRIAL DISTRICT, BEING A SUBDIVISION OF THE EAST 1/2 OF THE NORTH WEST 1/4 OF SECTION 23, AND WEST OF THE WEST LINE OF HICKS ROAD, ACCORDING TO THE PLAT OF DEDICATION RECORDED JANUARY 30, 1933 AS DOCUMENT NO 11194100 (EXCEPT THE SOUTH 35.0 FEET THEREOF TAKEN FOR HELLEN ROAD) IN COOK COUNTY, ILLINOIS.

560 South Hicks Road, Palatine, IL 60067

The South 245 feet of Lot 6 in Klefstad's Palatine Industrial Park, being a Subdivision of that part of the East 1/2 of the Southwest 1/4 of Section 23, Township 42 North, Range 10 East of the Third Principal Meridian lying West of the right of way of State Route 53 (Hicks Road) in Cook County, Illinois