

4-22-239122
5-10-2022

Illinois Anti-Predatory
Lending Database
Program

Doc#: 2213939156 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 05/19/2022 12:01 PM Pg: 1 of 42

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: **PIN:** 13-01-115-016-0000

Address:

Street: 6226-6250 North California Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60659

Lender: First Republic Bank

Borrower: 6250 North California LLC

Loan / Mortgage Amount: \$1,189,500.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is not owner-occupied.

Certificate number: B0F3C2F3-4768-42BC-9848-2D9ED1B54F32

Execution date: 5/9/2022

ATLAS Title & Escrow
4-22-23922
5-10-2022

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Property of Cook County Clerk's Office

MORTGAGE AND SECURITY AGREEMENT
WITH ASSIGNMENT OF RENTS

Dated as of

May 10, 2022

FROM

6250 North California LLC,
an Illinois limited liability company

TO

FIRST REPUBLIC BANK

This instrument was prepared by:

Joycelyn Morris
First Republic Bank
111 Pine St.
San Francisco, CA 94111

And after recording, should be returned to:

First Republic Bank
111 Pine St.
San Francisco, CA 94111
Attn: Loan Review

Loan No. 17-651161-2
Obligor No.: 021-1544924

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MORTGAGE AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS

This Mortgage and Security Agreement with Assignment of Rents (this "*Mortgage*") is dated as of May 10, 2022, from **6250 North California LLC, an Illinois limited liability company** with its principal place of business and mailing address at **1000 North Milwaukee Avenue, #200, Chicago, Illinois 60642** (hereinafter referred to as "*Mortgagor*") to First Republic Bank with its mailing address at 111 Pine Street, San Francisco, California 94111 (hereinafter referred to as "*Mortgagee*");

WITNESSETH THAT:

WHEREAS, Mortgagor may from time to time borrow money or otherwise obtain credit from Mortgagee and, in connection therewith, Mortgagor may sign and deliver to Mortgagee such notes, agreements, guaranties, and/or applications evidencing such obligations or otherwise setting forth the terms and conditions related thereto, which indebtedness, obligations, and liabilities (together with all interest and fees thereon, and all costs and expenses related thereto), whether now existing or hereafter arising, are to be secured by this Mortgage;

NOW, THEREFORE, to secure (i) the payment and performance of Mortgagor's indebtedness and obligations under that certain Promissory Note Secured by Mortgage of the Mortgagor dated as of May 10, 2022 in the original principal amount of **One Million One Hundred Eighty-Nine Thousand Five Hundred and 00/100 Dollars (\$1,189,500.00)** executed by Mortgagor and payable to Mortgagee, or order, and all extensions, renewals, modifications, amendments and replacements thereof (collectively, the "*Note*"), which Note is expressed to mature on **June 1, 2032** (the "*Maturity Date*"), the final maturity thereof, and evidences a term loan (the "*Loan*") extended by Mortgagee to Mortgagor (the Note and all other agreements evidencing such indebtedness, obligations, and liabilities or otherwise setting forth the terms and conditions related thereto, and all guaranties and security documents therefor, including without limitation, this Mortgage, being hereinafter collectively referred to as the "*Loan Documents*"), (ii) all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations and indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of the Mortgagor or any guarantor to the Mortgagee or any indemnified party individually or collectively, existing on the date hereof or arising hereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, arising or incurred under any of the Loan Documents or in respect of the Loan or other obligations incurred or any other instruments at any time evidencing any thereof, (iii) the payment of all other indebtedness, obligations and liabilities which this Mortgage secures pursuant to any of its terms, and (iv) the observance and performance of all covenants and agreements contained herein or in the other Loan Documents or in any other instrument or document at any time evidencing or securing any of the foregoing or setting forth terms and conditions applicable thereto (all of such indebtedness, obligations and liabilities described in clauses (i), (ii), (iii) and (iv) above being hereinafter collectively referred to as the "*Secured Indebtedness*"), Mortgagor does hereby grant, bargain, sell, convey, mortgage, warrant, assign,

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and pledge unto Mortgagee, its successors and assigns (for the benefit of itself and as representative for the benefit of its affiliates), and grant to Mortgagee, its successors and assigns (for the benefit of itself and as representative for the benefit of its affiliates), a continuing security interest in, all and singular, the properties, rights, interests and privileges described in Granting Clauses I, II, III, IV, V, VI, VII, and VIII below, all of the same being collectively referred to herein as the "*Mortgaged Premises*":

GRANTING CLAUSE I

All right, title and interest of Mortgagor now owned or hereafter acquired in and to that certain real estate lying and being in the City of Chicago, County of Cook and State of Illinois more particularly described in Schedule I attached hereto and made a part hereof.

GRANTING CLAUSE II

All right, title and interest of Mortgagor now owned or hereafter acquired in and to all buildings and improvements of every kind and description heretofore or hereafter erected or placed on the property described in Granting Clause I and all materials intended for construction, reconstruction, alteration and repairs of the buildings and improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the premises immediately upon the delivery thereof to the said real estate, and all fixtures, machinery, apparatus, equipment, fittings and articles of personal property of every kind and nature whatsoever now or hereafter attached to or contained in or used or useful in connection with said real estate and the buildings and improvements now or hereafter located thereon and the operation, maintenance and protection thereof, including but not limited to all machinery, motors, fittings, radiators, awnings, shades, screens, all gas, coal, steam, electric, oil and other heating, cooking, power and lighting apparatus and fixtures, all fire prevention and extinguishing equipment and apparatus, all cooling and ventilating apparatus and systems, all plumbing, incinerating, and sprinkler equipment and fixtures, all elevators and escalators, all communication and electronic monitoring equipment, all window and structural cleaning rigs and all other machinery and equipment of every nature and fixtures and appurtenances thereto and all items of furniture, appliances, draperies, carpets, other furnishings, equipment and personal property used or useful in the operation, maintenance and protection of the said real estate and the buildings and improvements now or hereafter located thereon and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to said real estate, buildings or improvements in any manner, and all proceeds thereof; it being mutually agreed, intended and declared that all the aforesaid property shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and, for the purpose of this Mortgage, to be real estate and covered by this Mortgage; and as to the balance of the property aforesaid, this Mortgage is hereby deemed to be as well a security agreement under the provisions of the Uniform Commercial Code of the State of Illinois for the purpose of creating hereby a security interest in said property, which is hereby granted by Mortgagor as debtor to Mortgagee as secured party, securing the Secured Indebtedness. However, notwithstanding anything to the contrary in this Mortgage, including without limitation, in the event that the Mortgaged Premises is or will be located in an area designated by the Administrator of the Federal Emergency

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Management Agency, or any successor thereto, as being within a flood plain or special flood hazard area, the personal property collateral or fixtures securing this Mortgage shall be limited to only those items specifically covered (currently or hereafter) by Coverage A of the standard flood insurance policy issued in accordance with the National Flood Insurance Program or under equivalent coverage similarly issued by a private insurer to satisfy the National Flood Insurance Act on 1968 (42 U.S.C. §4001), as amended, or any successor statutes. The addresses of Mortgagor (debtor) and Mortgagee (secured party) appear at the beginning hereof. Mortgagor's organizational registration number is **86-2040072**.

GRANTING CLAUSE III

All right, title and interest of Mortgagor now owned or hereafter acquired in and to all and singular the estates, tenements, hereditaments, privileges, easements, licenses, franchises, appurtenances and royalties, mineral, oil, and water rights belonging or in any wise appertaining to the property described in the preceding Granting Clause I and the buildings and improvements now or hereafter located thereon and the reversions, rents, issues, revenues and profits thereof, including all interest of Mortgagor in all rents, issues and profits of the aforementioned property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits of money as advanced rent or for security) under any and all leases or subleases and renewals thereof, or under any contracts or options for the sale of all or any part of, said property (including during any period allowed by law for the redemption of said property after any foreclosure or other sale), together with the right, but not the obligation, to collect, receive and receipt for all such rents and other sums and apply them to the Secured Indebtedness and to demand, sue for and recover the same when due or payable; provided that the assignments made hereby shall not impair or diminish the obligations of Mortgagor under the provisions of such leases or other agreements nor shall such obligations be imposed upon Mortgagee. By acceptance of this Mortgage, Mortgagee agrees, not as a limitation or condition hereof, but as a personal covenant available only to Mortgagor that until an Event of Default (as hereinafter defined) shall occur giving Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive (but not more than 30 days in advance) and enjoy such rents.

GRANTING CLAUSE IV

All right, title and interest of Mortgagor now owned or hereafter acquired in and to all plans, specifications, working drawings and like materials prepared in connection with improvements constituting part of the Mortgaged Premises, all rights of Mortgagor against vendors or manufacturers in connection with equipment located upon the Mortgaged Premises, whether arising by virtue of warranty or otherwise, all rights against contractors, sub-contractors and materialmen arising in connection with work performed at or on the Mortgaged Premises or with materials furnished for the construction of improvements at or on the Mortgaged Premises, and all rights of Mortgagor under contracts to provide any of the foregoing, in each case whether now owned or existing or hereafter arising or acquired.

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GRANTING CLAUSE V

All right, title and interest of Mortgagor now owned or hereafter acquired in and to all judgments, awards of damages, settlements and other compensation heretofore or hereafter made resulting from condemnation proceedings or the taking of the property described in Granting Clause I or any part thereof or any building or other improvement now or at any time hereafter located thereon or any easement or other appurtenance thereto under the power of eminent domain, or any similar power or right (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for the payment thereof), whether permanent or temporary, or for any damage (whether caused by such taking or otherwise) to said property or any part thereof or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including severance and consequential damage, and any award for change of grade of streets (collectively, "Condemnation Awards"); and all right, title, and interest in all insurance policies maintained in connection with the property described in Granting Clause I or any part thereof or any building or other improvement now or at any time hereafter located thereon or any easement or other appurtenance thereto or for any damage to said property or any part thereof or the improvements thereon or any part thereof, or to any rights appurtenant thereto.

GRANTING CLAUSE VI

All property and rights, if any, which are by the express provisions of this Mortgage required to be subjected to the lien hereof and any additional property and rights that may from time to time hereafter be subjected to the lien hereof by Mortgagor or by anyone on Mortgagor's behalf.

GRANTING CLAUSE VII

All rights in and to common areas and access roads on adjacent properties heretofore or hereafter granted to Mortgagor and any after-acquired title or reversion in and to the beds of any ways, roads, streets, avenues and alleys adjoining the property described in Granting Clause I or any part thereof.

GRANTING CLAUSE VIII

All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or other liquidated claims, including, without limitation, all proceeds of insurance.

TO HAVE AND TO HOLD the Mortgaged Premises and the properties, rights and privileges hereby granted, bargained, sold, conveyed, mortgaged, warranted, pledged and assigned, and in which a security interest is granted, or intended so to be, unto Mortgagee, its successors and assigns, forever; *provided, however*, that this Mortgage is upon the express condition that if the Secured Indebtedness shall be fully paid and performed and all commitments contained in the Loan Documents to extend credit thereunder shall have terminated, then this Mortgage and the

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estate and rights hereby granted shall cease and this Mortgage shall be released by Mortgagee promptly thereafter and at the expense of Mortgagor.

The lien of this Mortgage shall be valid as to all Secured Indebtedness from the time of its filing for record in the recorder's office in the county in which the Mortgaged Premises are located. The total amount of Secured Indebtedness may increase or decrease from time to time, but the total unpaid balance of Secured Indebtedness (including disbursements which Mortgagee may make under this Mortgage, the Loan Documents or any other documents related thereto) at any one time outstanding shall not exceed a maximum principal amount of **One Million One Hundred Eighty-Nine Thousand Five Hundred and 00/100 Dollars (\$1,189,500.00)**, plus interest thereon, all fees, costs and expenses payable thereunder, and all disbursements made for payment of taxes, special assessments or insurance on the Mortgaged Premises and interest on such disbursements (all such indebtedness being hereinafter referred to as the "*maximum amount secured hereby*"). This Mortgage shall be valid and have priority over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Mortgaged Premises, to the extent of the maximum amount secured hereby.

Mortgagor hereby covenants and agrees with Mortgagee as follows:

1. *Payment of the Secured Indebtedness.* The Secured Indebtedness will be promptly paid as and when the same becomes due.

2. *Ownership of Mortgaged Premises.* Mortgagor covenants and warrants that it is lawfully seized of and has good and marketable title to the Mortgaged Premises free and clear of all liens, charges, and encumbrances except those exceptions to title listed on Schedule II attached hereto (collectively, the "*Permitted Exceptions*") and Mortgagor has good right, full power, and authority to convey, transfer, and mortgage the same to Mortgagee for the uses and purposes set forth in this Mortgage; and Mortgagor will warrant and forever defend the title to the Mortgaged Premises subject to the Permitted Exceptions against all claims and demands whatsoever.

3. *Further Assurances.* Mortgagor will execute and deliver such further instruments and do such further acts as may be necessary or proper to carry out more effectively the purpose of this Mortgage and, without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the Granting Clauses hereof or intended so to be.

4. *Possession.* Provided no Event of Default has occurred and is continuing hereunder, Mortgagor shall be suffered and permitted to remain in full possession, enjoyment and control of the Mortgaged Premises, subject always to the observance and performance of the terms of this Mortgage.

5. *Payment of Taxes; Impounds.*

(a) *Payment of Taxes.* Mortgagor shall pay before any penalty attaches, all general taxes and all special taxes, special assessments, water, drainage, sewer and other utility

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charges and all other charges of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed, imposed or charged on or against the Mortgaged Premises or any part thereof (the "Impositions") and which, if unpaid, might by law become a lien or charge upon the Mortgaged Premises or any part thereof, and shall, upon written request, exhibit to Mortgagee official receipts evidencing such payments, except that, unless and until foreclosure, distraint, sale or other similar proceedings shall have been commenced, no such charge or claim need be paid if being contested (except to the extent any full or partial payment shall be required by law), after notice to Mortgagee, by appropriate proceedings conducted in good faith and with due diligence and if Mortgagor shall have furnished such security, if any, as may be required in the proceedings or requested by Mortgagee.

(b) *Impound Account.* Upon not less than ten (10) days prior written notice by Mortgagee to Mortgagor, Mortgagee, at its option and without regard as to whether any Event of Default exists, shall have the right to require Mortgagor (1) to deposit with Mortgagee, in monthly installments, an amount equal to one-twelfth (1/12th) of the estimated aggregate annual amount of any or all Impositions as may be designated by Mortgagee (including taxes and insurance premiums), as determined by Mortgagee; and (2) establish with and pay to Mortgagee a reserve for any or all Impositions as may be designated by Mortgagee equal to two of the monthly installments described in clause (1) of this sentence. If Mortgagee exercises its right to require Mortgagor to make such deposits with Mortgagee, Mortgagor shall deliver to Mortgagee all bills, statements, and invoices relating to the Impositions immediately upon Mortgagor's receipt of such items. The amounts deposited by Mortgagor with Mortgagee pursuant to this Section 5(a) (collectively, the "Impound Funds") (i) shall not be deemed to be held by Mortgagee in trust or as agent of Mortgagor; (ii) shall not bear interest, except as otherwise expressly required by law; (iii) shall be applied by Mortgagee to the payment of the Impositions in such order of priority as Mortgagee shall determine, provided Mortgagor has delivered to Mortgagee the appropriate bills, statements and invoices relating to the Impositions not later than thirty (30) days prior to the due date thereof; and (iv) may be commingled by Mortgagee with its general funds. If, at any time within thirty (30) days prior to the due date of any of the Impositions, Mortgagee determines that the Impound Funds then held by Mortgagee are insufficient to pay such Impositions in full, upon Mortgagee's demand, Mortgagor shall deposit with Mortgagee the amount of such deficiency, as determined by Mortgagee. If the Impound Funds held by Mortgagee exceed the amount necessary to discharge the Impositions for which such Impound Funds were deposited, Mortgagee, at its option, may either refund such excess to Mortgagor or may hold such excess and reduce proportionately the periodic deposits required to be made by Mortgagor for payment of the Impositions.

(c) *Security Interest.* Mortgagor grants a security interest to Mortgagee in all Impound Funds deposited by Mortgagor with Mortgagee under this Section 5 to secure the Secured Indebtedness. Upon the occurrence of any Event of Default, Mortgagee, at its option and without regard to the adequacy of any other collateral securing the Secured Indebtedness, shall have the right to apply any or all of the Impound Funds to any or all of the Secured Indebtedness in such amounts and order as Mortgagee may determine.

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(d) *Assignment; Reconveyance.* If Mortgagee assigns this Mortgage, Mortgagee shall have the right to transfer all Impound Funds held by Mortgagee to Mortgagee's assignee. Upon such transfer, Mortgagee shall have no further liability of any kind with respect to the Impound Funds, and Mortgagee's assignee shall be deemed to have assumed all liabilities of Mortgagee with respect to the Impound Funds. Following full payment and performance of all of the Secured Indebtedness and the reconveyance of the Mortgaged Premises under this Mortgage, Mortgagee shall refund to Mortgagor any Impound Funds then held by Mortgagee.

(e) *No Liability for Insufficient Impound Funds.* Nothing contained in this Section 5 shall be deemed (i) to require Mortgagee to pay any amounts on account of any Impositions in excess of the Impound Funds held by Mortgagee; or (ii) to impair, prejudice or otherwise affect any of Mortgagee's rights or remedies under this Mortgage or under applicable law to pay any or all of the Impositions if the Impound Funds then held by Mortgagee are insufficient for such purposes and to add the amount paid by Mortgagee to the Secured Indebtedness.

6. *Payment of Taxes on Loan Documents, Mortgage or Interest of Mortgagee.* Mortgagor agrees that if any tax, assessment or imposition upon this Mortgage or the Secured Indebtedness or any Loan Document or the interest of Mortgagee in the Mortgaged Premises or upon Mortgagee by reason of or as a holder of any of the foregoing (including, without limitation, corporate privilege, franchise and excise taxes, but excepting therefrom any income tax on interest payments on the principal portion of the Secured Indebtedness imposed by the United States or any state) is levied, assessed or charged, then, unless all such taxes are paid by Mortgagor to, for or on behalf of Mortgagee as they become due and payable (which Mortgagor agrees to do upon thirty (30) days written request of Mortgagee, to the extent permitted by law), or Mortgagee is reimbursed for any such sum advanced by Mortgagee, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee upon thirty (30) days' notice to Mortgagor, notwithstanding anything contained herein or in any law heretofore or hereafter enacted, including any provision thereof forbidding Mortgagor from making any such payment. Mortgagor agrees to exhibit to Mortgagee, upon request, official receipts or other evidence of payment satisfactory to Mortgagee in its reasonable discretion showing payment of all taxes and charges which Mortgagor is required to pay hereunder.

7. *Recordation and Payment of Taxes and Expenses Incident Thereto.* Mortgagor will cause this Mortgage, all amendments hereto, all mortgages supplemental hereto, and any financing statement or other notice of a security interest required by Mortgagee at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law for the recording and filing or for the rerecording and refiling of a mortgage, security interest, assignment or other lien or charge upon the Mortgaged Premises, or any part thereof, in order fully to preserve and protect the rights of Mortgagee hereunder and, without limiting the foregoing, Mortgagor will pay or reimburse Mortgagee for the payment of any and all taxes, fees or other charges incurred in connection with any such recordation or re-recordation, including any documentary stamp tax or tax imposed upon the privilege of having this Mortgage or any instrument issued pursuant hereto recorded.

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8. *Insurance.* Mortgagor will, at its expense, keep all buildings, improvements, equipment and other property now or hereafter constituting part of the Mortgaged Premises insured against loss or damage by fire, lightning, windstorm, explosion and such other risks as are usually included under extended coverage policies, or which are usually insured against by owners of like property, in amount sufficient to prevent Mortgagor or Mortgagee from becoming a co-insurer of any partial loss under applicable policies and in any event not less than the then full insurable value (actual replacement value without deduction for physical depreciation) thereof, as determined at the request of Mortgagee and at Mortgagor's expense by the insurer or insurers or by an expert approved by Mortgagee, all under insurance policies payable, in case of loss or damage, to Mortgagee, such rights to be evidenced by the usual standard non-contributory form of mortgage clause to be attached to each policy. Mortgagor shall not carry separate insurance concurrent in kind or form and contributing in the event of loss, with any insurance required hereby. Mortgagor shall also obtain and maintain public liability, property damage and workmen's compensation insurance in each case in form and content satisfactory to Mortgagee and in amounts as are customarily carried by owners of like property and approved by Mortgagee. Mortgagor shall also obtain and maintain such other insurance with respect to the Mortgaged Premises in such amounts and against such insurable hazards as Mortgagee from time to time may require, including, without limitation, boiler and machinery insurance, insurance against flood risks, host liquor liability, war risk insurance when and to the extent obtainable from the United States Government or any agency thereof, and insurance against loss of rent due to fire and risks now or hereafter embraced by so-called "extended coverage". Without limiting any of the terms of this Section 8, (i) the fire and extended coverage and other casualty insurance policies which Mortgagor is required to maintain under this Mortgage shall contain a mortgagee's loss payable endorsement acceptable to Mortgagee naming Mortgagee as loss payee and (ii) the commercial general liability policy which Mortgagor is required to maintain under this Mortgage shall name Mortgagee as an additional insured and shall be primary and noncontributing with any insurance maintained by Mortgagee. All insurance required hereby shall be maintained with good and responsible insurance companies satisfactory to Mortgagee, shall provide that any losses shall be payable notwithstanding any act or negligence of Mortgagor, shall provide that no cancellation thereof shall be effective until at least thirty (30) days after receipt by Mortgagor and Mortgagee of written notice thereof (ten (10) days in the case of non-payment of premiums), and shall be satisfactory to Mortgagee in all other respects (including the amounts, form, coverage, deductibles, insurer and loss payable and cancellation provisions). Upon the execution of this Mortgage and thereafter not less than fifteen (15) days prior to the expiration date of any policy delivered pursuant to this Mortgage, Mortgagor will deliver to Mortgagee certificates of insurance evidencing Mortgagor's compliance with the foregoing (and, at Mortgagee's request, the originals of any policy or renewal policy, as the case may be, required by this Mortgage, bearing notations evidencing the payment of all premiums). In the event of foreclosure, Mortgagor authorizes and empowers Mortgagee to effect insurance upon the Mortgaged Premises in amounts aforesaid for a period covering the time of redemption from foreclosure sale provided by law, and if necessary therefor to cancel any or all existing insurance policies.

UNLESS MORTGAGOR PROVIDES MORTGAGEE WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THIS MORTGAGE, MORTGAGEE MAY PURCHASE INSURANCE AT MORTGAGOR'S EXPENSE TO PROTECT MORTGAGEE'S INTERESTS IN THE MORTGAGED PREMISES.

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THIS INSURANCE MAY, BUT NEED NOT, PROTECT MORTGAGOR'S INTERESTS IN THE MORTGAGED PREMISES. THE COVERAGE PURCHASED BY MORTGAGEE MAY NOT PAY ANY CLAIMS THAT MORTGAGOR MAKES OR ANY CLAIM THAT IS MADE AGAINST MORTGAGOR IN CONNECTION WITH THE MORTGAGED PREMISES. MORTGAGOR MAY LATER CANCEL ANY SUCH INSURANCE PURCHASED BY MORTGAGEE, BUT ONLY AFTER PROVIDING MORTGAGEE WITH EVIDENCE THAT MORTGAGOR HAS OBTAINED INSURANCE AS REQUIRED BY THIS MORTGAGE. IF MORTGAGEE PURCHASES INSURANCE FOR THE MORTGAGED PREMISES, MORTGAGOR WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES THAT MORTGAGEE 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 THE SECURED INDEBTEDNESS. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE MORTGAGOR MAY BE ABLE TO OBTAIN ON ITS OWN.

9. *Damage to or Destruction of Mortgaged Premises.*

(a) *Notice.* In case of any material damage to or destruction of the Mortgaged Premises or any part thereof, Mortgagor shall promptly give written notice thereof to Mortgagee, generally describing the nature and extent of such damage or destruction.

(b) *Restoration.* In case of any damage to or destruction of the Mortgaged Premises or any part thereof, Mortgagor, whether or not the insurance proceeds, if any, received on account of such damage or destruction shall be sufficient for the purpose, at Mortgagor's expense, will promptly commence and complete (subject to unavoidable delays occasioned by strikes, lockouts, acts of God, inability to obtain labor or materials, governmental restrictions and similar causes beyond the reasonable control of Mortgagor) the restoration, replacement or rebuilding of the Mortgaged Premises as nearly as possible to its value, condition and character immediately prior to such damage or destruction.

(c) *Adjustment of Loss.* Mortgagor hereby authorizes Mortgagee, at Mortgagee's option, to adjust and compromise any losses under any insurance afforded, but unless Mortgagee elects to adjust the losses as aforesaid, said adjustment and/or compromise shall be made by Mortgagor, subject to final approval of Mortgagee in the case of losses exceeding \$10,000.

(d) *Application of Insurance Proceeds.* The Mortgagee shall determine in its sole discretion whether net insurance proceeds received by Mortgagee under the provisions of this Mortgage or any instruments supplemental hereto or thereto or under any policy or policies of insurance covering the Mortgaged Premises or any part thereof shall be applied toward the payment of the amount owing on the Secured Indebtedness or released to Mortgagor for use in restoring the Mortgaged Premises or any part thereof.

10. *Eminent Domain.* Mortgagor acknowledges that Condemnation Awards have been assigned to Mortgagee, which awards Mortgagee is hereby irrevocably authorized to collect and receive, and to give appropriate receipts and acquittances therefor, and to apply the same toward the payment of the amount owing on account of the Secured Indebtedness or, in respect of any

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taking of a portion (but not all or any material portion) of the Mortgaged Premises, to release the same to Mortgagor for use in restoring the Mortgaged Premises or any part thereof. Mortgagor covenants and agrees that Mortgagor will give Mortgagee immediate notice of the actual or threatened commencement of any proceedings under condemnation or eminent domain affecting all or any part of the Mortgaged Premises including any easement therein or appurtenance thereof or severance and consequential damage and change in grade of streets, and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further covenants and agrees to make, execute and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation heretofore and hereafter to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

11. *Construction, Repair, Waste, Etc.* Mortgagor agrees (i) that no portion of the Mortgaged Premises and constituting a part thereof shall be altered, removed or demolished by Mortgagor nor shall any fixtures or appliances comprising the Mortgaged Premises be severed, removed, sold or mortgaged, without the consent of Mortgagee (which shall not be unreasonably withheld, conditioned or delayed) and in the event of the demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property comprising the Mortgaged Premises, Mortgagor covenants that the same will be replaced promptly by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from any security interest in or encumbrance thereon or reservation of title thereto; (ii) to permit, commit or suffer no waste, impairment or deterioration of the Mortgaged Premises or any part thereof; (iii) to keep and maintain the Mortgaged Premises and every part thereof; (iv) to effect such repairs as Mortgagee may reasonably require and from time to time to make all needful and proper replacements and additions so that the Mortgaged Premises will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed; (v) to comply in all material respects with all statutes, orders, requirements or decrees relating to the Mortgaged Premises by any federal, state or municipal authority; (vi) to observe and comply in all material respects with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning variances, special exceptions and non-conforming uses), privileges, franchises and concessions which are applicable to the Mortgaged Premises or which have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the Mortgaged Premises or any part thereof and not to initiate or acquiesce in any changes to or terminations of any of the foregoing or of zoning classifications affecting the use to which the Mortgaged Premises or any part thereof may be put without the prior written consent of Mortgagee; and (vii) to make no material alterations in or improvements or additions to the Mortgaged Premises except as required by governmental authority or as permitted by Mortgagee.

12. *Liens and Encumbrances; Sales and Transfers.* Mortgagor will not, without the prior written consent of Mortgagee, directly or indirectly, create or suffer to be created or remain and will discharge or promptly cause to be discharged any mortgage, lien, encumbrance or charge on, pledge of, or conditional sale or other title retention agreement with respect to, the Mortgaged Premises or any part thereof, whether superior or subordinate to the lien hereof,

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except for this Mortgage and the Permitted Exceptions. Mortgagee shall have the right, at its option and without notice to or demand on Mortgagor, to declare any or all Secured Indebtedness to be immediately due and payable if any of the following events occurs without Mortgagee's prior written consent: (a) the sale, conveyance, transfer, mortgage, encumbrance, lease (except for the leasing of space in the Buildings which is permitted under Section 18(a) below) or alienation of all or any part of the Mortgaged Premises or any interest in the Mortgaged Premises, whether voluntary or involuntary, or Mortgagor's grant of any option or agreement to effect any such transaction; (b) if any Manager of Mortgagor is a partnership, the admission, withdrawal, retirement or removal of any general partner of any of Mortgagor's Managers, or the sale or transfer of more than twenty-five percent (25%) of the beneficial interests in Mortgagor or any of Mortgagor's Managers; (c) if any Manager of Mortgagor is a corporation, the sale or transfer of an aggregate of more than twenty-five percent (25%) of any class of stock in such corporation or the issuance by such corporation of additional stock to any Person who is not a shareholder in such corporation as of the date of this Mortgage; (d) if Mortgagor or any Manager of Mortgagor is a limited liability company, the appointment, withdrawal, retirement or removal of any Manager of Mortgagor or any of Mortgagor's Managers or the sale or transfer of more than twenty-five percent (25%) of the beneficial interests in Mortgagor or any of Mortgagor's Managers; (e) if Mortgagor or any of Mortgagor's Managers is a corporation, partnership, or limited liability company, the dissolution or liquidation of Mortgagor or any of Mortgagor's Managers; or (f) any material change in the character or use of all or part of the Mortgaged Premises, including drilling for or the extraction of oil, gas or any other hydrocarbon substance or the lease of all or any part of the Mortgaged Premises for any such purpose. Without limiting the generality of any provision of this Mortgage, Mortgagee's consent to any or all of the events described in this Section may be withheld by Mortgagee in its sole and absolute discretion. Mortgagee's consent to any event described in this Section shall not be deemed to be a consent to, or a waiver of the right to require such consent for, any other event. For purposes of this Section 12, (i) the term "*partnership*" includes a general partnership, limited partnership, limited liability partnership, and joint venture; (ii) the term "*Manager*" means any Person who is acting as a manager of a limited liability company, including any member who is acting in such capacity; (iii) the term "*Person*" means any natural person or any entity, including any corporation, partnership, joint venture, limited liability company, trust, unincorporated organization, trustee, or Governmental Authority; and (iv) the term "*Governmental Authority*" means (i) the United States; (ii) the state, county, city, or other political subdivision in which the Mortgaged Premises is located; (c) all other governmental or quasi-governmental authorities, boards, bureaus, agencies, commissions, departments, administrative tribunals, and other instrumentalities or authorities; and (d) all judicial authorities and public utilities having or exercising jurisdiction over Mortgagor or the Mortgaged Premises.

13. *Right of Mortgagee to Perform Mortgagor's Covenants, Etc.* If Mortgagor shall fail to make any payment or perform any act required to be made or performed hereunder, Mortgagee, 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 Mortgagor, and may enter upon the Mortgaged Premises or any part thereof for such purpose and take all such action thereon as, in the opinion of Mortgagee, may be necessary or appropriate therefor. All sums so paid by Mortgagee and all costs and expenses (including, without limitation, attorneys' fees and expenses) so incurred, together with interest thereon from

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the date of payment or incurrence at the Reimbursement Rate, shall constitute so much additional Secured Indebtedness and shall be paid by Mortgagor to Mortgagee on demand. Mortgagee in making any payment authorized under this Section relating to taxes or assessments may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim thereof. Mortgagee, in performing any act hereunder, shall be the sole judge of whether Mortgagor is required to perform the same under the terms of this Mortgage.

14. *After-Acquired Property.* Any and all property hereafter acquired which is of the kind or nature herein provided, or intended to be and become subject to the lien hereof, shall ipso facto, and without any further conveyance, assignment or act on the part of Mortgagor, become and be subject to the lien of this Mortgage as fully and completely as though specifically described herein; but nevertheless Mortgagor shall from time to time, if requested by Mortgagee, execute and deliver any and all such further assurances, conveyances and assignments as Mortgagee may reasonably require for the purpose of expressly and specifically subjecting to the lien of this Mortgage all such property.

15. *Inspection by Mortgagee.* Mortgagee and any participant in the Secured Indebtedness shall have the right to inspect the Mortgaged Premises at all reasonable times, and access thereto shall be permitted for that purpose.

16. *Financial Reports; Books and Records; Estoppel Certificates; Management; Appraisals.*

(a) *Financial Statements.* Within ninety (90) days after the close of Mortgagor's fiscal year, Mortgagor shall deliver to Mortgagee a balance sheet and a statement of profit and loss for Mortgagor for such fiscal year. Within ninety (90) days after the close of the fiscal year for (i) each Guarantor; and (ii) each Manager of Mortgagor, Mortgagor shall cause each such Guarantor and Manager to provide Mortgagee with a balance sheet and a statement of profit and loss for such Guarantor, and Manager for such fiscal year. Mortgagor shall cause all financial statements furnished to Mortgagee under this Section to be certified by the party to whom such statements apply. If Mortgagor or any Guarantor or Manager has audited financial statements prepared, Mortgagor shall cause a copy of such audited financial statements to be delivered to Mortgagee within thirty (30) days after such statements are received by Mortgagor or the Person to whom such statements apply. Mortgagor and each Person whose financial statements are provided to Mortgagee under this Section shall, by submitting such statements to Mortgagee, be conclusively deemed to have certified to Mortgagee, in addition to any other certifications contained in such statements, that the financial statements furnished to Mortgagee (i) are accurate and complete in all material respects as of the dates appearing thereon; (ii) present fairly the financial condition and results of operations of the Person to whom the statements apply as of the date and for the period shown in such statements; and (iii) disclose all material suits, actions, proceedings and contingent liabilities affecting the Person to whom the financial statements apply. Mortgagor shall provide Mortgagee with such other information concerning the financial

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condition and affairs of Mortgagor, the Guarantors and Managers as Mortgagee may reasonably require within ten (10) business days after Mortgagee's request for such information. Mortgagor shall deliver to Mortgagee, or cause to be delivered to Mortgagee, a complete and accurate copy of each federal income tax return filed by Mortgagor and any Guarantor and Manager within thirty (30) days after the date on which each such return is filed.

(b) *Financial Information.* Mortgagee, at its option and in its sole discretion, shall have the right to request Mortgagor to deliver to Mortgagee, within ten (10) days of Mortgagee's request, updated financial information, including without limitation; a balance sheet and profit and loss statement, provided that such request shall be limited to one time per year unless there exists an uncured Event of Default. Mortgagor acknowledges that in connection with Mortgagee's periodic review of Mortgagor's credit, Mortgagor authorizes Mortgagee to make inquiries it deems necessary and prudent for the purposes of (i) analyzing the financial information provided to Mortgagee, (ii) evaluating and re-verifying, from time to time, the credit-worthiness and financial condition of Mortgagor and, if applicable, the Guarantors and Managers of Mortgagor, and (iii) evaluating the Mortgaged Premises.

(c) *Operating Statements.* Within ninety (90) days after the end of each calendar year, and within ten (10) business days after Mortgagee's request from time to time, Mortgagor shall deliver to Mortgagee an accurate and complete annual operating statement for the Mortgaged Premises for the immediately preceding calendar year or twelve (12) month period, as applicable. All such operating statements shall be in a form reasonably acceptable to Mortgagee and shall contain such detail as Mortgagee may require to provide Mortgagee with a complete and accurate statement of all income, receipts, payments, rents, reimbursements, deposits, and other revenues of every kind from the Mortgaged Premises and all operating expenses of every kind paid or incurred with respect to the Mortgaged Premises, including taxes, insurance, utilities, salaries, wages and personnel costs, leasing costs and commissions, maintenance and repair costs, legal and accounting fees and expenses, advertising and promotion costs, management fees, and expenditures for capital improvements. Each operating statement delivered by Mortgagor to Mortgagee under this Section shall be signed by Mortgagor and shall be certified as being accurate and complete by Mortgagor. At any time after Mortgagee's receipt of any of the operating statements described in this Section or in Section 16(f) below, within ten (10) business days after Mortgagee's request, Mortgagor shall deliver to Mortgagee copies of such invoices, bank statements, canceled checks, and other supporting documentation as Mortgagee may designate to substantiate any or all matters reflected in the operating statements received by Mortgagee.

(d) *Rental Statements.* Within ninety (90) days after the end of each calendar year, and within ten business (10) days after Mortgagee's request from time to time, Mortgagor shall deliver to Mortgagee an accurate and complete rent statement for the Mortgaged Premises (the "*Rent Statement*") as of the last day of the most recent calendar month showing (i) the leasing status of all space in the Buildings, including information as to whether such space is vacant or subject to a Lease; and (ii) with respect to each space in

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the Buildings that has been leased, [A] the name of the Tenant renting the space; [B] the premises occupied by each of the Tenants; [C] the current monthly rent and all other amounts payable by such Tenant under such Lease; [D] the total amount of all prepaid rent received by Mortgagee from such Tenant; [E] the total amount of any security deposit or other deposit received by Mortgagee from such Tenant; [F] the expiration date of the term of such Lease or nature of the tenancy under such Lease; [G] the rent payment dates and the amount of any delinquent rent or other payments owing by such Tenant; [H] extension or renewal options under the Leases; [I] any rent or other concessions granted to, and any claims or offsets asserted by, any Tenants; and [J] such other information as Mortgagee may designate. Each Rent Statement delivered by Mortgagee to Mortgagee under this Section or Section 16(f) below shall be signed by Mortgagee and shall be certified as being accurate and complete by Mortgagee. As used herein, "Buildings" means all buildings, structures and other improvements now existing or hereafter located on the Land; "Tenants" means all tenants and occupants of the Mortgaged Premises under the Leases; and "Leases" means all existing and future rental agreements, leases, licenses, concessions, occupancy agreements, and other similar agreements affecting the Mortgaged Premises, including all subleases at any level.

(e) *Books and Records.* Mortgagee shall keep and maintain complete and accurate Books and Records at Mortgagee's principal place of business, and Mortgagee shall not remove the Books and Records from such location without Mortgagee's prior written consent. Mortgagee shall have access to the Books and Records at all reasonable times upon reasonable prior notice (which shall not be less than three (3) business days) for the purposes of examination, inspection, verification, copying and for any other reasonable purpose. The Books and Records shall include a complete and accurate record of all costs incurred and payments made in connection with the design, construction, improvement, development, use, ownership, operation, maintenance, repair, and marketing of the Mortgaged Premises. If (i) Mortgagee fails to provide Mortgagee with any annual financial statement or income tax return, annual operating statement, or annual Rent Statement which Mortgagee is required to deliver to Mortgagee under Sections 16(a), (c) and (d) above within the required time period; and (ii) Mortgagee fails to cure such failure within thirty (30) days after the date on which the latter of two separate written notices is given by Mortgagee to Mortgagee (the second of which shall be given by Mortgagee not sooner than ten (10) days after the date on which the first of such notices is given) notifying Mortgagee of such failure and of the fact that a late charge in the amount of \$750 will be imposed on Mortgagee if Mortgagee fails to cure the failure within the time provided by this Section, then Mortgagee immediately shall pay to the Mortgagee a late charge in the amount of \$750. Mortgagee agrees that the actual damages suffered by Mortgagee because of any failure to deliver the information described in the immediately preceding sentence are extremely difficult and impracticable to ascertain, and the late charge described in this Section represents a reasonable attempt to fix such damages under the circumstances existing at the time this Mortgage is executed. Mortgagee's acceptance of such late charge shall not constitute a waiver of any breach by Mortgagee of its obligation to provide the information required by Section 16 of this Mortgage or any of the other terms of the Loan Documents and shall not affect Mortgagee's right to enforce any of its rights and remedies against Mortgagee or any other any Person under the Loan

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Documents. As used herein, "Books and Records" means all books and records relating to the design, construction, improvement, development, use, ownership, operation, maintenance, repair, or marketing of the Mortgaged Premises, including (i) records reflecting the results of operation of the Mortgaged Premises; (ii) all Leases and other documents relating to the Mortgaged Premises; and (iii) Mortgagor's federal income tax returns for the year in which the Loan is made and each subsequent year that the Loan is outstanding.

(f) *Additional Reports and Information.* Within ten (10) business days after Mortgagee's request from time to time, Mortgagor shall deliver to Mortgagee such additional information available to Mortgagor and reports as Mortgagee may reasonably request concerning the Mortgaged Premises and the business and affairs of Mortgagor or any Guarantor or Manager, including (i) a balance sheet and profit and loss statement for the most recent fiscal year and for the most recent fiscal year-to-date quarterly period or periods of Mortgagor or any Guarantor or Manager, each of which shall be certified and otherwise prepared in accordance with the requirements of Section 16(a) above; (ii) quarterly or monthly operating statements from Mortgagor for the Mortgaged Premises for each calendar quarter or month containing the same detailed information required to be included in the operating statements described in Section 16(c) above; (iii) quarterly or monthly Rent Statements from Mortgagor for the Mortgaged Premises for each calendar quarter or month containing the same detailed information required to be included in the Rent Statements described in Section 16(d) above; (iv) copies of all financial statements and reports that Mortgagor sends to its partners or shareholders, if any; (v) copies of all reports which are available for public inspection or which Mortgagor is required to file with any Governmental Authorities; (vi) a certificate executed by Mortgagor, dated within ten (10) business days of the date of delivery of such certificate to Mortgagee, stating that Mortgagor knows of no Event of Default under the Loan Documents or, if an Event of Default exists, stating the nature of the default and what action Mortgagor has taken or proposes to take with respect to such Event of Default; (vii) complete and accurate as-built plans for all Buildings located on the Mortgaged Premises, if and to the extent such plans are in Mortgagor's possession or control; (viii) complete and accurate copies of all Leases and any currently effective letters of intent or proposals to lease all or part of the Mortgaged Premises received or made by or behalf of Mortgagor; and (ix) the most recent years' federal income tax returns for Mortgagor or any Guarantor or Manager. All financial statements that are required to be provided to Mortgagee under this Section 16 shall be on Mortgagee's standard form of financial statement or on such other form as may be reasonably acceptable to Mortgagee. Mortgagee may exercise its rights to require additional reports and information under this Section at any time and from time to time on such periodic basis as Mortgagee reasonably shall determine to be necessary or appropriate, including annual requests on the anniversary of the date of recordation of this Mortgage.

(g) *Notice of Certain Matters.* Mortgagor shall promptly notify Mortgagee in writing of (i) any claim, demand, right, or Lien relating to the Mortgaged Premises which may be adverse to the lien of this Mortgage; (ii) any material loss, depreciation, or adverse change in the value of the Mortgaged Premises and any other occurrence which may

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materially and adversely affect Mortgagee's lien on the Mortgaged Premises; (iii) any material adverse change in Mortgagor's ability to pay or perform any or all of the Secured Indebtedness; (iv) any event or condition which constitutes an Event of Default; and (v) any dispute between Mortgagor and any Governmental Authority relating to the Mortgaged Premises which may have a material adverse effect on the Mortgaged Premises. As used herein, "*Liens*" means all mortgages, deeds of trust, mechanics' liens, and other liens and encumbrances of every kind and nature, other than this Mortgage, now or hereafter affecting the Mortgaged Premises.

(h) *Estoppel Certificates*. Within ten (10) business days after Mortgagee's request, Mortgagor shall deliver to Mortgagee a written statement signed and acknowledged by Mortgagor and certified by Mortgagor to be accurate stating (i) the original principal amount of the Note; (ii) the unpaid principal balance of the Note and the amount of all other monetary obligations secured by this Mortgage; (iii) the rate of interest on the unpaid principal balance of the Note; (iv) the terms of payment and maturity date of the Note; (v) the date installments of interest, principal, or both principal and interest were last paid; (vi) that, except as specifically provided in such statement, there are no defaults by Mortgagor under the Loan Documents or events which with the passage of time or the giving of notice, or both, would constitute an Event of Default under the Loan Documents; (vii) that the Loan Documents are valid, legal and binding obligations of Mortgagor and have not been modified (or if modified, stating the specific terms of such modification); (viii) whether Mortgagor contends that any offsets or defenses exist against the obligations secured by this Mortgage and whether Mortgagor has any claims of any kind against Mortgagee and, if so, a detailed description of such offsets, defenses, and claims; (ix) that all Leases affecting the Mortgaged Premises identified in a current Rent Statement are in full force and effect (or if any of such Leases is not in full force, stating the basis on which the Lease has been terminated or cancelled); (x) the date to which the rents have been paid pursuant to all Leases affecting the Mortgaged Premises; (xi) whether or not, to the best of Mortgagor's knowledge, any of the Tenants under the Leases affecting the Mortgaged Premises are in default under such Leases and, if any of Tenants is in default, setting forth the specific nature of all such defaults; (xii) the amount of security deposits held by Mortgagor under each Lease affecting the Mortgaged Premises and that such amount is consistent with the amounts required under each Lease; and (xiii) such other information with respect to the Secured Indebtedness, the Loan Documents, the Mortgaged Premises, or the Leases as Mortgagee may reasonably require, including evidence acceptable to Mortgagee of Mortgagor's compliance with any of the terms of the Loan Documents which are specifically identified in Mortgagee's request. With respect to all statements, information and reports that Mortgagor submits to Mortgagee pursuant to this Mortgage, including pursuant to this Section 16, Mortgagor shall be deemed conclusively to have certified to Mortgagee, whether or not such statements, information or reports have been signed by Mortgagor, that [A] such statements, information and reports are accurate and complete in all material respects as of the date or for such periods as may be shown in the statements, information, and reports; and [B] such statements, information, and reports do not omit to state any facts or other information so as to make the statements, information, or reports submitted to Mortgagee misleading in any material respect.

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(i) *Management.* The Mortgaged Premises shall be managed by either (i) Mortgagor or an entity affiliated with Mortgagor who has been approved by Mortgagee, provided that the Mortgagee determines that Mortgagor or such affiliated entity is at all times managing the Mortgaged Premises in accordance with good quality and generally accepted management practices for properties similar to the Mortgaged Premises; or (ii) a professional property management company acceptable to Mortgagee. If the Mortgaged Premises is managed by an entity affiliated with Mortgagor or a professional property management company, such management shall be pursuant to a written management agreement acceptable to Mortgagee.

(j) *Appraisals.* Upon receipt of written notice from Mortgagee that either Mortgagee or a federal or state regulatory agency having jurisdiction over Mortgagee reasonably believes that the fair market value of the Mortgaged Premises may have substantially declined since the date of Mortgagee's last appraisal of the Mortgaged Premises, Mortgagor shall obtain, as promptly as possible and at Mortgagor's expense, an updated Appraisal of the Mortgaged Premises, in form and substance satisfactory to Mortgagee and such regulatory agency from an appraiser satisfactory to Mortgagee in its sole discretion.

17. *Warranties and Representations.* As a material inducement to Mortgagee's extension of credit to Mortgagor in connection with the Loan, Mortgagor warrants and represents to Mortgagee as follows:

(a) *Limited Liability Company Existence.* Mortgagor is a duly organized limited liability company, validly existing and in good standing under the laws of the State in which Mortgagor is organized, and Mortgagor is qualified to do business and is in good standing under the laws of the state in which the Mortgaged Premises is located.

(b) *Authority.* Mortgagor has the full power and authority to carry on its business and to enter into and perform all of its obligations under the Loan Documents, and the Loan Documents, when executed by the Persons signing this Mortgage on behalf of Mortgagor, shall constitute legal, valid and binding obligations of Mortgagor enforceable in accordance with their respective terms. The Persons executing this Mortgage on behalf of Mortgagor are duly authorized to execute the Loan Documents and all other documents required by Mortgagee in connection with the Loan on behalf of Mortgagor. No consent of any other Person and no consent, approval, authorization or other action by or filing with any Governmental Authorities is required in connection with the execution, delivery and performance of Mortgagor's obligations under the Loan Documents.

(c) *No Violations.* The consummation of the transactions contemplated by the Loan Documents and the performance of Mortgagor's obligations thereunder will not result in a breach or violation of (i) any Governmental Requirements of any Governmental Authorities or any judgment, writ, injunction, decree or order of any court relating to Mortgagor or the Mortgaged Premises; (ii) any mortgage, agreement, commitment, restriction, or other document to which Mortgagor is a party or by which Mortgagor or the

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Mortgaged Premises is bound; or (iii) Mortgagor's articles of organization or operating agreement. As used herein, "*Governmental Requirements*" means all existing and future laws, ordinances, rules, regulations, orders, and requirements of all Governmental Authorities applicable to Mortgagor or the Mortgaged Premises, including those respecting the design, construction, improvement, development, use, ownership, operation, maintenance, repair, or marketing of the Mortgaged Premises.

(d) *Utilities*. All utility services necessary for the use and occupancy of the Mortgaged Premises, including water, storm drains, sewers, gas, electric and telephone facilities, are available at the boundaries of the Mortgaged Premises.

(e) *Access*. All public streets and rights of way necessary for the use and occupancy of the Mortgaged Premises have been completed.

(f) *Governmental Restrictions*. To the best of Mortgagor's knowledge, there are no conditions or restrictions affecting the use or development of the Mortgaged Premises and no agreements or contracts with any Governmental Authorities, including local, regional, state, or federal governmental authorities, affecting the use or development of the Mortgaged Premises which have not been disclosed in writing by Mortgagor to Mortgagee.

(g) *Litigation*. To the best of Mortgagor's knowledge, there are no actions, suits, proceedings or investigations pending or threatened against or affecting Mortgagor or the Mortgaged Premises in any court or before any other Governmental Authorities, nor does Mortgagor know of any basis for any such action, suit, proceeding or investigation.

(h) *Ownership*. Upon recordation of this Mortgage, Mortgagor will be the sole legal and beneficial owner of, and will have good and marketable title to, the Mortgaged Premises and all other collateral which is the subject of the Loan Documents.

(i) *Liens*. To the best of Mortgagor's knowledge, there are no Liens, claims, encroachments, Covenants and Restrictions, Leases, Easements, or other rights affecting the Mortgaged Premises which would not be disclosed by a customary search of the records relating to the Mortgaged Premises of the county recorder for the county in which the Mortgaged Premises is located, except for such matters as have been specifically disclosed by Mortgagor to and approved in writing by Mortgagee prior to the date of recordation of this Mortgage. As used herein, "*Covenants and Restrictions*" means all covenants, conditions, restrictions, equitable servitudes, and all other similar matters now or hereafter affecting the Mortgaged Premises, including any condominium, planned unit development, or cooperative apartment declaration of covenants, conditions and restrictions, by-laws, articles, rules, and regulations to which Mortgagor or the Mortgaged Premises is subject or bound; and "*Easements*" means all existing and future easements, rights of way, licenses, and similar rights relating or appurtenant to the Mortgaged Premises and all existing and future rights in or to streets, roads, sidewalks, alleys, strips and gores adjoining or used in connection with the Mortgaged Premises.

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(j) *Condemnation.* To the best of Mortgagor's knowledge, there is no condemnation, zoning change, or other proceeding or action pending, threatened or contemplated by any Governmental Authority which would in any way affect the Mortgaged Premises.

(k) *Repair Orders.* To the best of Mortgagor's knowledge, no orders or directives have been issued by any Governmental Authorities requiring that any work of repair, maintenance or improvement be performed with respect to the Mortgaged Premises.

(l) *Transfers.* Mortgagor has not sold, transferred, leased or encumbered the Mortgaged Premises or entered into any agreement for the sale, transfer, lease or encumbrance of the Mortgaged Premises, except as described in the Loan Documents.

(m) *No Affiliation With Tenants.* Neither (i) Mortgagor; (ii) any Manager of Mortgagor, or (iii) any Guarantors have any direct or indirect financial or other interest in any Tenant, except for such interests as have been specifically disclosed to and approved in writing by Mortgagee prior to the date of recordation of this Mortgage. As used herein, "Guarantors" means the Person or Persons now or hereafter guaranteeing payment of the Note or payment or performance of any or all of the other Secured Indebtedness.

(n) *Financial Statements.* All statements respecting the financial condition of Mortgagor, any Manger of Mortgagor, and any Guarantors which have been furnished to Mortgagee (i) are accurate and complete in all material respects as of the dates appearing thereon; (ii) present fairly the financial condition and results of operations of the Person to whom the financial statement applies as of the dates and for the periods shown on such statements; and (iii) disclose all suits, actions, proceedings and contingent liabilities affecting the Person to whom the financial statement applies. Since the last date covered by such financial statements, there has been no material adverse change in the financial condition of the Persons to whom such statements apply.

(o) *Other Financing.* As of the date of recordation of this Mortgage, no other financing for the Mortgaged Premises will be in effect or encumber the Mortgaged Premises, except such subordinate financing as has been specifically disclosed to and approved in writing by Mortgagee prior to the date of recordation of this Mortgage.

(p) *Commissions.* Mortgagor has not dealt with any Person who is or may be entitled to any finder's fee, brokerage commission, loan commission or other similar sum in connection with the consummation of the transactions contemplated by the Loan Documents, except for such commissions as have been specifically disclosed to and approved in writing by Mortgagee prior to the date of recordation of this Mortgage.

The warranties and representations contained in this Section 17 shall be true and correct as of the date of recordation of this Mortgage, shall survive the closing of the Loan, and shall remain true and correct as of the date on which such warranties and representations are given. For purposes of this Mortgage, the term "to the best of Mortgagor's knowledge" shall be deemed

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to the best knowledge of Mortgagor after a commercially reasonable and diligent investigation, inspection and inquiry by Mortgagor.

18. *Leases.*

(a) *Permitted Leasing; Assignment of and Compliance with Leases.* Notwithstanding Section 12 above, Mortgagor shall have the right to enter into Leases in the ordinary course of Mortgagor's business without Mortgagee's prior written consent, provided that all of the following conditions are satisfied: (i) the term of such Lease, including any extension or renewal options, does not exceed a total of five (5) years and the premises which are the subject of such Lease contain less than twenty percent (20%) of the total rentable square footage of the Buildings; (ii) the form used for such Lease represents a commercially reasonable lease form or has been approved in writing by Mortgagee prior to Mortgagor's execution of the Lease; (c) the rental and all other charges under such Lease (i) are not more favorable to the Tenant than pro forma rental and other charges which have been approved in writing by Mortgagee not more than six (6) months prior to Mortgagor's execution of such Lease, and such approval has not been modified or revoked at the time the Lease is executed by Mortgagor; or (ii) are at the then current fair market rate for comparable space and represent terms agreed upon in a bona fide arm's length lease transaction with a tenant who is not in any way affiliated with Mortgagor; (d) such Lease is unconditionally subordinate to this Mortgage and contains an attornment provision consistent with Section 18(b) below; (e) no Event of Default has occurred and is continuing at the time of Mortgagor's execution of such Lease; and (f) Mortgagor provides Mortgagee with an accurate and complete copy of such Lease within ten (10) business days after such Lease is executed by Mortgagor. Upon Mortgagee's request, Mortgagor (i) shall execute, acknowledge and deliver to Mortgagee an absolute and unconditional assignment acceptable to Mortgagee of all of Mortgagor's interest in all Leases and all guaranties of and security for the Tenants' respective obligations under the Leases, and (ii) shall promptly deliver to Mortgagee a true and complete copy of residential Leases. Mortgagor shall perform and discharge all obligations of the lessor under the Leases in accordance with the terms thereof and shall diligently enforce all remedies available to Mortgagor in a commercially reasonable manner in the event of a default by the Tenant under any Lease.

(b) *Attornment at Mortgagee's Option.* Each Tenant who enters into a Lease for the Mortgaged Premises after the date of recordation of this Mortgage (each such Lease is referred to as a "*Subordinate Lease*") and who has not entered into a written non-disturbance and attornment agreement with Mortgagee shall be deemed to have agreed to attorn to Mortgagee and accept Mortgagee as the landlord under its Lease on the terms of this Section. If Mortgagee acquires title to the Mortgaged Premises by foreclosure under this Mortgage, Mortgagee, at its option, shall have the right to require any or all Tenants under Subordinate Leases to attorn to and accept Mortgagee as the landlord under such Tenant's Subordinate Lease (the "*Attornment Option*") by giving written notice to such Tenant within thirty (30) days after the date on which Mortgagee acquires title to the Mortgaged Premises (the "*Acquisition Date*"). If Mortgagee exercises the Attornment Option with respect to any Subordinate Lease, such attornment shall be effective and self-

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operative as of the Acquisition Date without the execution of any further documents on the part of the Tenant, Mortgagee, or any other party, and the Tenant under the Subordinate Lease shall be bound to Mortgagee under all of the terms, covenants, and conditions of the Subordinate Lease for the remaining balance of the term thereof, with the same force and effect as if Mortgagee were the landlord under such Lease. Whether or not Mortgagee exercises its Attornment Option with respect to any Subordinate Lease, Mortgagee (a) shall not be liable for any act or omission of any prior landlord under any Subordinate Lease, including Mortgagor; (b) shall not be subject to any offset, defense, or claim which any Tenant may have against any prior landlord under any Subordinate Lease, including Mortgagor; (c) shall not be obligated (i) to return any security deposit now or hereafter paid by any Tenant; (ii) to return any prepaid rent or other amounts prepaid by any Tenant; or (iii) to grant any Tenant a credit for any such security deposit, prepaid rent or other prepaid amounts (excluding monthly rent and other charges which have not been prepaid for more than one month in advance), except to the extent, if any, that Mortgagee has actually and unconditionally received such security deposit, prepaid rent or other prepaid amounts; and (d) shall not be obligated to complete the construction of any or all Buildings. Without limiting the terms of this Section, upon Mortgagee's request, each Tenant under a Subordinate Lease shall execute and deliver to Mortgagee any document which Mortgagee determines to be necessary or appropriate to evidence such Tenant's attornment to Mortgagee on the terms of this Section, including a new lease with Mortgagee on the same terms and conditions as the Subordinate Lease for a term equal to the unexpired term of the Subordinate Lease. Nothing contained in this Section shall be deemed to obligate Mortgagee to recognize any Subordinate Lease or accept an attornment by any Tenant upon Mortgagee's acquisition of title to the Mortgaged Premises. If Mortgagee elects not to exercise the Attornment Option within the time period specified in this Section with respect to any Subordinate Lease, such Subordinate Lease and all of the rights, privileges and powers of the Tenant thereunder shall automatically terminate and shall be of no further force or effect from and after the Acquisition Date.

(c) *Termination or Modification of Leases.* Without Mortgagee's prior written consent, and except as otherwise expressly permitted by the Loan Documents (including Section 18(d) below), Mortgagor shall not (i) terminate, cancel, accept a surrender of, agree to any material modification to, or waive any of Mortgagor's material rights under any of the Leases, except cancellation of a Lease based on a material default by the Tenant thereunder; (ii) collect rent under any of the Leases for more than one (1) month in advance; (iii) agree to subordinate any of the Leases to any other Lien; (iv) discount the rent or other amounts payable under any of the Leases or release any Tenant or any other party liable for the performance of any Tenant's obligations under any of the Leases; (v) consent to any sublease or to the assignment of all or part of any Tenant's interest under the Leases; or (vi) in any other manner impair Mortgagee's rights with respect to or interest in the rents and profits. Any attempted termination, cancellation, surrender, modification, or subordination of a Lease in violation of this Section shall be void. Mortgagor shall give immediate written notice to Mortgagee of (1) any material default by any Tenant under any of the Leases; (2) any notice received by Mortgagor from any Tenant under any of the Leases claiming any material default or

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material breach by Mortgagor under such Tenant's Lease; and (3) any other material default by Mortgagor under any of the Leases of which Mortgagor is aware. Upon Mortgagee's request, Mortgagor shall furnish to Mortgagee all material information which Mortgagee may reasonably require regarding Mortgagor's or any Tenant's performance under any or all of the Leases.

(d) *Permitted Lease Modifications.* Notwithstanding Section 18(c) above, and provided that no Event of Default has occurred and is continuing under the Loan Documents, Mortgagor shall have the right to enter into a modification, amendment, or supplement to a Lease (referred to collectively as a "*Lease Modification*") without Mortgagee's prior written consent, provided that (i) the Lease Modification (1) is and at all times remains subordinate to this Mortgage; (2) is not material in nature; (3) does not affect the rent (including base rent, percentage rent, and common areas charges) payable by the Tenant, term, or any other monetary or economic term of such Lease; (4) does not modify in any material respect the permitted use of the premises under such Lease; (5) does not change the identity of the Tenant under such Lease; (6) does not materially increase any obligation of the landlord under such Lease; and (7) Mortgagor provides Mortgagee with a complete and accurate copy of the Lease Modification within ten (10) business days after such Lease Modification becomes effective, or (b) the Lease is a residential Lease.

(e) *Mortgagee's Approval of New Leases and Lease Modifications.* Provided that no Event of Default has occurred and is continuing under the Loan Documents, Mortgagee shall exercise its right to grant or withhold its approval of any proposed new Lease ("*New Lease*") or Lease Modification which requires Mortgagee's approval under the terms of the Loan Documents in Mortgagee's good faith business judgment. Mortgagee shall give written notice to Mortgagor of Mortgagee's approval or disapproval of any New Lease or Lease Modification which requires Mortgagee's approval following Mortgagee's receipt of a complete and accurate copy of the New Lease or Lease Modification, as applicable, together with current financial statements for the Tenant thereunder and such other information regarding the New Lease or Lease Modification, as applicable, as Mortgagee reasonably may request in order to enable Mortgagee to make a reasonably informed decision with respect to the New Lease or Lease Modification. Mortgagor may enter into a New Lease or Lease Modification which requires Mortgagee's approval prior to obtaining such approval, provided that the New Lease or Lease Modification, as applicable, and the Mortgagor's obligations thereunder are expressly conditioned on Mortgagor obtaining Mortgagee's approval.

19. *Subrogation.* Mortgagor acknowledges and agrees that Mortgagee shall be subrogated to any lien discharged out of the proceeds of any credit extended under the Loan Documents or out of any advance by Mortgagee hereunder, irrespective of whether or not any such lien may have been released of record.

20. *Events of Default.* Any one or more of the following shall constitute an "*Event of Default*" hereunder:

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(a) failure by Mortgagor to pay the Loan or any other Secured Indebtedness under the Note or any other Loan Document or to perform any of its other obligations under the Loan Documents or under any other document with Mortgagee requiring the payment of money to Mortgagee or any third Person within ten (10) days after the date on which such indebtedness or monetary obligation is due; *provided, however*, that the ten (10) day grace period contained in this Section 20(a) shall not apply to Mortgagor's obligation to pay the outstanding principal balance and all accrued but unpaid interest under the Note on the stated maturity date of the Note; or

(b) any event occurs or condition exists which is specified as an event of default (or words of like import) in any other Loan Document; or

(c) default in the observance or performance of any provision hereof requiring the maintenance of insurance on the Mortgaged Premises or dealing with the use or remittance of proceeds of the Mortgaged Premises or any part thereof; or

(d) default for more than thirty (30) days in the observance or compliance with any terms or provisions of this Mortgage or any other Loan Document or of any separate assignment of leases and/or rents or any other instrument or document securing the Secured Indebtedness or any part thereof or relating thereto; or

(e) any representation or warranty made by Mortgagor herein or in any separate assignment of leases and/or rents or any other instrument or document securing the Secured Indebtedness or any part thereof or relating thereto or in any statement or certificate furnished by it pursuant hereto or thereto proves to be untrue in any material respect as of the date of issuance or making thereof; or

(f) the Mortgaged Premises or any part thereof shall be sold, transferred, or conveyed, whether voluntarily or involuntarily, by operation of law or otherwise, except for sales of obsolete, worn out or unusable fixtures or personal property which are concurrently replaced with similar fixtures or personal property at least equal in quality and condition to those sold and owned by Mortgagor free of any lien, charge or encumbrance other than the lien hereof; or

(g) failure by Mortgagor to pay any of its indebtedness or to perform any of its obligations under any document between the Mortgagor and Mortgagee (other than the Loan Documents) when due; or

(h) (i) a petition is filed by or against Mortgagor under the federal bankruptcy laws or any other applicable federal or state bankruptcy, insolvency or similar law; (ii) a receiver, liquidator, trustee, custodian, sequestrator, or other similar official is appointed to take possession of Mortgagor or the Mortgaged Premises, or Mortgagor consents to such appointment; (iii) Mortgagor makes an assignment for the benefit of creditors; (iv) Mortgagor takes any action in furtherance of any of the foregoing; or (v) there is a material adverse change in Mortgagor's financial condition as represented to Mortgagee in connection with Mortgagee's approval of the Loan and Mortgagee reasonably

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determines that such change materially impairs Mortgagor's ability to perform any or all of the Secured Indebtedness or other obligations under the Loan Documents; *provided, however*, that Mortgagor shall have thirty (30) days within which to cause any involuntary bankruptcy proceeding to be dismissed or the involuntary appointment of any receiver, liquidator, trustee, custodian, or sequestrator to be discharged. The cure provision contained in this Section 20(h) shall be in lieu of, and not in addition to, any and all other cure provisions contained in the Loan Documents; or

(i) any of the events specified in Section 20(i) above occurs with respect to any of the Guarantors or any Manager of Mortgagor; or

(j) all or any material part of the assets of Mortgagor, any of the Guarantors, or any Manager of Mortgagor are attached, seized, subjected to a writ or levied upon by any court process and Mortgagor fails to cause such attachment, seizure, writ or levy to be fully released or removed within sixty (60) days after the occurrence of such event. The cure provision contained in this Section 20(j) shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents; or

(k) a court order is entered against Mortgagor, any of the Guarantors, or any Manager of Mortgagor enjoining the conduct of all or part of such Person's business and Mortgagor fails to cause such injunction to be fully stayed, dissolved or removed within sixty (60) days after such order is entered. The cure provision contained in this Section 20(k) shall be in lieu of, and not in addition to, any and all other cure periods contained in the Loan Documents; or

(l) dissolution or termination of existence of Mortgagor, any Guarantor or any Manager of Mortgagor; or

(m) the appointment, withdrawal, death, retirement or removal of any Manager of Mortgagor; (b) the sale or transfer of an aggregate of more than forty-nine percent (49%) of the beneficial interests of Mortgagor; or (c) Mortgagee's receipt of any conflicting written instructions or written demands relating to the Loan from any members of Mortgagor which Mortgagee reasonably determines have a material adverse affect on Mortgagee's ability to service or administer the Loan;

(n) the death or incompetency of any Guarantor or Manager of Mortgagor, except where applicable law limits or prohibits Mortgagee's declaration of a default based on such occurrences; *provided, however*, that Mortgagee shall not declare an Event of Default to exist based solely on the death or mental incompetence of any individual Guarantor or Manager if, within ninety (90) days after the occurrence of such event, (i) in the case of the death or mental incompetence of a Guarantor, Mortgagor causes a substitute guarantor to execute and deliver to Mortgagee a continuing guaranty in the form previously executed by the affected Guarantor, and Mortgagee in good faith determines that such substitute guarantor's financial condition is comparable to that of the affected Guarantor and that such substitute Guarantor is otherwise reasonably acceptable to Mortgagee; and (ii) in the case of the death or mental incompetence of a

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Manager, Mortgagor causes a substitute manager to be admitted to Mortgagor or appointed, and Mortgagee in good faith determines that the financial condition, credit history, character, experience, ability and expertise of such substitute manager are comparable to the affected Manager and that such substitute manager is otherwise acceptable to Mortgagee; or

(o) the priority of this Mortgage or Mortgagee's security interest under any of the other agreements securing any or all of the Secured Indebtedness is impaired for any reason; or the value of the Mortgaged Premises has deteriorated, declined or depreciated as a result of any intentional tortious act or omission by Mortgagor; or

(p) all or any material part of the Mortgaged Premises is transferred to any Governmental Authority as a result of any condemnation proceeding or action with respect to all or any material part of the Mortgaged Premises; or

(q) there is an uninsured casualty with respect to the Mortgaged Premises, and Mortgagor (i) fails to commence repairs and reconstruction of the Mortgaged Premises within ninety (90) days after such damage; or (ii) thereafter fails to diligently prosecute such repairs and reconstruction to completion; or

(r) the occurrence of any of the events described in Section 12 hereof without Mortgagee's prior written consent; or

(s) failure by any Guarantor to pay any of its indebtedness or perform any of its obligations under any Guaranty for the benefit of Mortgagee or under any other guaranty for the benefit of Mortgagee or a third party when due or the revocation, limitation or termination or attempted revocation, limitation or termination of any of the obligations of any Guarantor under any Guaranty or guaranty for the benefit of Mortgagee, except in accordance with the express written terms of such Guaranty or guaranty; or

(t) any request, statement, information, certification, representation or warranty, whether written or oral, submitted or made by any Guarantor to Mortgagee in connection with the Loan or any other extension of credit by the Mortgagee to Mortgagor or such Guarantor now or in the future is false or misleading in any material respect; or

(u) the Mortgaged Premises is abandoned.

21. *Remedies.* When any Event of Default has happened and is continuing (regardless of the pendency of any proceeding which has or might have the effect of preventing Mortgagor from complying with the terms of this instrument and of the adequacy of the security for the Secured Indebtedness) and in addition to such other rights as may be available under the Loan Documents or applicable law, but subject at all times to any mandatory legal requirements:

(a) *Acceleration.* Mortgagee may, by written notice to Mortgagor, declare the Secured Indebtedness, including all principal and interest then accrued thereon, to be

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forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without other notice or demand of any kind.

(b) *Uniform Commercial Code.* Mortgagee shall, with respect to any part of the Mortgaged Premises constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the Uniform Commercial Code, have all the rights, options and remedies of a secured party under the Uniform Commercial Code of Illinois, including without limitation, the right to the possession of any such property, or any part thereof, and the right to enter without legal process any premises where any such property may be found. Any requirement of said Uniform Commercial Code for reasonable notification shall be met by mailing written notice to Mortgagor at its address above set forth at least ten (10) days prior to the sale or other event for which such notice is required. The costs and expenses of retaking, selling, and otherwise disposing of said property, including attorneys' fees and legal expenses incurred in connection therewith, shall constitute so much additional Secured Indebtedness and shall be payable upon demand with interest at the Reimbursement Rate.

(c) *Foreclosure.* Mortgagee may proceed to protect and enforce the rights of Mortgagee hereunder (i) by any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or (ii) by the foreclosure of this Mortgage.

(d) *Appointment of Receiver.* Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through it, and without regard to the solvency or insolvency of Mortgagor or the then value of the Mortgaged Premises, be entitled to have a receiver appointed of all or any part of the Mortgaged Premises and the rents, issues and profits thereof, with such power as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Any such receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Mortgaged Premises or any part thereof by force, summary proceedings, ejectment or otherwise, and may remove Mortgagor or other persons and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect thereto on any part thereof, whether during the pendency of any foreclosure or until any right of redemption shall expire or otherwise.

(e) *Taking Possession, Collecting Rents, Etc.* Mortgagee may enter and take possession of the Mortgaged Premises or any part thereof and manage, operate, insure, repair and improve the same and take any action that, in Mortgagee's judgment, is necessary or proper to conserve the value of the Mortgaged Premises. Mortgagee may also take possession of, and for these purposes use, any and all personal property contained in the Mortgaged Premises and used in the operation, rental or leasing thereof or any part thereof. Mortgagee shall be entitled to collect and receive all earnings, revenues, rents, issues and profits of the Mortgaged Premises or any part thereof (and for

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such purpose Mortgagor does hereby irrevocably constitute and appoint Mortgagee its true and lawful attorney-in-fact for it and in its name, place and stead to receive, collect and receipt for all of the foregoing, Mortgagor irrevocably acknowledging that any payment made to Mortgagee hereunder shall be a good receipt and acquittance against Mortgagor to the extent so made) and to apply same to the reduction of the Secured Indebtedness. The right to enter and take possession of the Mortgaged Premises and use any personal property therein, to manage, operate and conserve the same, and to collect the rents, issues and profits thereof, shall be in addition to all other rights or remedies of Mortgagee hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. The expenses (including any receiver's fees, counsels' fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be so much additional Secured Indebtedness, which Mortgagor promises to pay upon demand together with interest at the Reimbursement Rate. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any rents actually received by Mortgagee. Without taking possession of the Mortgaged Premises, Mortgagee may, in the event the Mortgaged Premises becomes vacant or is abandoned, take such steps as it deems appropriate to protect and secure the Mortgaged Premises (including hiring watchmen therefor) and all costs incurred in so doing shall constitute so much additional Secured Indebtedness payable upon demand with interest thereon at the Reimbursement Rate.

22. *Waiver of Right to Redeem From Sale - Waiver of Appraisalment, Valuation, Etc.* Mortgagor shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Premises sold as an entirety. In the event of any sale made under or by virtue of this Mortgage, the whole of the Mortgaged Premises may be sold in one parcel as an entirety or in separate lots or parcels at the same or different times, all as Mortgagee may determine. Mortgagee shall have the right to become the purchaser at any sale made under or by virtue of this Mortgage and Mortgagee so purchasing at any such sale shall have the right to be credited upon the amount of the bid made therefor by Mortgagee with the amount payable to Mortgagee out of the net proceeds of such sale. In the event of any such sale, the Secured Indebtedness, if not previously due, shall be and become immediately due and payable without demand or notice of any kind. Mortgagor hereby waives any and all rights of redemption prior to or from sale under any order or decree of foreclosure pursuant to rights herein granted, on behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Mortgaged Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by applicable law.

23. *Costs and Expenses of Foreclosure.* 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 Mortgagee for reasonable attorneys' fees, appraisers' fees, environmental auditors' fees, outlays for documentary and

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expert evidence, stenographic charges, publication costs and costs (which may be estimated as the items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, guarantee policies, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Mortgaged Premises, all of which expenditures shall become so much additional Secured Indebtedness which Mortgagor agrees to pay and all of such shall be due and payable with interest thereon from the date that is ten (10) business days after Mortgagee's written demand therefor until paid at the Reimbursement Rate.

24. *Application of Proceeds.* The proceeds of any foreclosure sale of the Mortgaged Premises or of any sale of property pursuant to Section 21(b) hereof shall be distributed in the following order of priority: First, on account of all costs and expenses incident to the foreclosure or other proceedings including all such items as are mentioned in Sections 21(b) and 23 hereof; Second, to the Secured Indebtedness in such order and manner as Mortgagee shall determine, with any overplus to whomsoever Mortgagee shall reasonably determine to be lawfully entitled to the same.

25. *Deficiency Decree.* If at any foreclosure proceeding the Mortgaged Premises shall be sold for a sum less than the total amount of indebtedness for which judgment is therein given, the judgment creditor shall be entitled to the entry of a deficiency decree against Mortgagor and against the property of Mortgagor for the amount of such deficiency; and Mortgagor does hereby irrevocably consent to the appointment of a receiver for the Mortgaged Premises and the property of Mortgagor and until such deficiency decree is satisfied in full.

26. *Mortgagee's Remedies Cumulative - No Waiver.* No remedy or right of Mortgagee shall be exclusive of but shall be cumulative and in addition to every other remedy or right now or hereafter existing at law or in equity or by statute or otherwise. No delay in the exercise or omission to exercise any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

27. *Mortgagee Party to Suits.* If Mortgagee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Premises or the title thereto or the interest of Mortgagee under this Mortgage (including probate and bankruptcy proceedings), or if Mortgagee employs an attorney to collect any or all of the Secured Indebtedness or to enforce any of the terms hereof or realize hereupon or to protect the lien hereof, or if Mortgagee shall incur any costs or expenses in preparation for the commencement of any foreclosure proceedings or for the defense of any threatened suit or proceeding which might affect the Mortgaged Premises or the security hereof, whether or not any such foreclosure or other suit or proceeding shall be actually commenced, then in any such case, Mortgagor agrees to pay to Mortgagee, immediately and without demand, all reasonable costs, charges, expenses and attorney's fees incurred by Mortgagee in any such case, and the same shall constitute so much additional Secured Indebtedness payable upon demand with interest at the Reimbursement Rate.

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28. *Modifications Not to Affect Lien.* Mortgagee, without notice to anyone, and without regard to the consideration, if any, paid therefor, or the presence of other liens on the Mortgaged Premises, may in its discretion release any part of the Mortgaged Premises or any person liable for any of the Secured Indebtedness, may extend the time of payment of any of the Secured Indebtedness and may grant waivers or other indulgences with respect hereto and thereto, and may agree with Mortgagor to modifications to the terms and conditions contained herein or otherwise applicable to any of the Secured Indebtedness (including modifications in the rates of interest applicable thereto), without in any way affecting or impairing the liability of any party liable upon any of the Secured Indebtedness or the priority of the lien of this Mortgage upon all of the Mortgaged Premises not expressly released, and any party acquiring any direct or indirect interest in the Mortgaged Premises shall take same subject to all of the provisions hereof.

29. *Notices.* All communications provided for herein shall be in writing and shall be deemed to have been given when delivered personally or mailed by first class mail, postage prepaid, addressed to the parties hereto at their addresses as shown at the beginning of this Mortgage or to such other and different address as Mortgagor or Mortgagee may designate pursuant to a written notice sent in accordance with the provisions of this Section.

30. *Other Security Documents.* Mortgagor acknowledges that this Mortgage is one of several mortgages and/or other security documents (the aforesaid being together called the "Other Security Documents") that secure the Secured Indebtedness or portions thereof. Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee or any other holder of any of the Secured Indebtedness, and without limiting the generality of the foregoing, the lien and security hereof shall not be impaired by any acceptance by Mortgagee or any other holder of any of the Secured Indebtedness of any security for or guarantors upon any of the Secured Indebtedness or by any failure, neglect or omission on the part of Mortgagee or any other holder of any of the Secured Indebtedness to realize upon or protect any of the Secured Indebtedness or any collateral or security therefor including the Other Security Documents. The lien and security interest hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, substitution, exchange, change in, modification or disposition of any of the Secured Indebtedness, or of any of the collateral or security therefor, including, without limitation, the Other Security Documents or of any guaranty thereof or of any instrument or agreement setting forth the terms and conditions pertaining to any of the foregoing. Mortgagee may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the Other Security Documents without first exercising or enforcing any of its right and remedies hereunder. Such exercise of Mortgagee's rights and remedies under any or all of the Other Security Documents shall not in any manner impair the Secured Indebtedness, except to the extent of payment, or the lien of this Mortgage and any exercise of the rights or remedies of Mortgagee hereunder shall not impair the lien of any of the Other Security Documents or any of Mortgagee's rights and remedies thereunder. Mortgagor specifically consents and agrees that Mortgagee may exercise its rights and remedies hereunder and under the Other Security Documents separately or concurrently and in any order that it may deem appropriate.

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31. *Sale of Loan Documents and Participations.* Mortgagee shall have the right to do any or all of the following at any time without prior notice to or the consent of Mortgagor or any other Person: (a) to sell, transfer, pledge or assign any or all of Loan Documents, or any or all servicing rights with respect thereto; (b) to sell, transfer, pledge or assign participations in the Loan Documents ("*Participations*"); and (c) to issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement (the "*Securities*"). Mortgagee is authorized to forward or disclose to each purchaser, transferee, assignee, servicer, participant, or investor in such Participations or Securities (collectively, the "*Investor*") or any Rating Agency rating such Securities, each prospective Investor, and any organization maintaining databases on the underwriting and performance of commercial mortgage loans, all documents and information which Mortgagee now has or may hereafter acquire relating to the Loan and to Mortgagor or any Guarantor as Mortgagee determines to be necessary or desirable. Upon Mortgagee's request, Mortgagor shall reasonably cooperate with Mortgagee in connection with any of the transactions contemplated by this Section. Notwithstanding anything to the contrary contained in this Mortgage or any of the other Loan Documents, from and after the date of any sale, transfer or assignment of the Note and other Loan Documents by Mortgagee, the cross-default provision contained in Section 20(g) of this Mortgage shall terminate and shall be of no further force or effect.

32. *Recovery Limitation.* Notwithstanding anything in this Mortgage to the contrary, the right of recovery against Mortgagor under this Mortgage shall not exceed \$1.00 less than the lowest amount which would render Mortgagor's obligations under this Mortgage void or voidable under applicable law, including fraudulent conveyance law.

33. *Reimbursement Rate.* For purposes of this Mortgage, the term "*Reimbursement Rate*" means the rate per annum equal to the interest rate applicable to the Loan under the Note on the date of determination.

34. *Governing Law.* The creation of this Mortgage, the perfection of the lien and security interest in the Mortgaged Premises, and the rights and remedies of Mortgagee with respect to the Mortgaged Premises, as provided herein and by the laws of the state in which the Mortgaged Premises is located, shall be governed by and construed in accordance with the internal laws of the state in which the Mortgaged Premises are located without regard to principles of conflicts of law. Otherwise, the Note and all other obligations of Mortgagor (including, but not limited to, the liability of Mortgagor for any deficiency following a foreclosure of all or any part of the Mortgaged Premises) shall be governed by and construed in accordance with the internal laws of the State of Illinois without regard to principles of conflicts of laws, such state being the state where such documents were executed and delivered.

35. *Partial Invalidity.* All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage or any other Loan Document shall be held to be invalid, illegal or unenforceable, the validity and enforceability of the other terms of this Mortgage or such other Loan Document, as applicable, shall in no way be affected thereby.

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36. *Successors and Assigns.* Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Mortgage contained by or on behalf of Mortgagor, or by or on behalf of Mortgagee, shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not. If more than one party signs this instrument as Mortgagor, then the term "*Mortgagor*" as used herein shall mean all of such parties, jointly and severally.

37. *Headings.* The headings in this Mortgage are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

38. *Changes, Etc.* This Mortgage and the provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

39. *Costs and Expenses; Indemnification.* (a) The Mortgagor agrees to pay on demand the costs and expenses of the Mortgagee in connection with the negotiation, preparation, execution and delivery of this Mortgage, the other Loan Documents and the other instruments and documents to be delivered hereunder or thereunder, and in connection with the recording or filing of any of the foregoing, and in connection with the transactions contemplated hereby or thereby, and in connection with any consents hereunder or waivers or amendments hereto or thereto, including the reasonable fees and expenses of counsel for the Mortgagee with respect to all of the foregoing (whether or not the transactions contemplated hereby are consummated). The Mortgagor further agrees to pay to the Mortgagee or any other holder of the Secured Indebtedness all costs and expenses (including court costs and reasonable attorneys' fees), if any, incurred or paid by the Mortgagee or any other holder of the Secured Indebtedness in connection with any Event of Default or in connection with the enforcement of this Mortgage or any of the other Loan Documents or any other instrument or document delivered hereunder or thereunder (including, without limitation, all such costs and expenses incurred in connection with any proceeding under the United States Bankruptcy Code involving the Mortgagor or any Guarantor). The Mortgagor further agrees to indemnify the Mortgagee, and any security trustee, and their respective directors, officers and employees, against all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, all expenses of litigation or preparation therefor, whether or not the indemnified Person is a party thereto) which any of them may pay or incur arising out of or relating to any Loan Document or any of the transactions contemplated thereby or the direct or indirect application or proposed application of the proceeds of any extension of credit made available under the Loan Documents, other than those which arise from the gross negligence or willful misconduct of the party claiming indemnification. The Mortgagor, upon demand by the Mortgagee at any time, shall reimburse the Mortgagee for any legal or other expenses incurred in connection with investigating or defending against any of the foregoing except if the same is directly due to the gross negligence or willful misconduct of the party to be indemnified. The obligations of the Mortgagor under this Section shall survive the termination of this Mortgage.

(b) The Mortgagor unconditionally agrees to forever indemnify, defend and hold harmless, and covenants not to sue for any claim for contribution against, the Mortgagee for any

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damages, costs, loss or expense, including without limitation, response, remedial or removal costs, arising out of any of the following: (i) any presence, release, threatened release or disposal of any hazardous or toxic substance or petroleum by the Mortgagor or otherwise occurring on or with respect to the Mortgaged Premises, (ii) the operation or violation of any environmental law, whether federal, state, or local, and any regulations promulgated thereunder, by the Mortgagor or otherwise occurring on or with respect to the Mortgaged Premises, (iii) any claim for personal injury or property damage in connection with the Mortgagor or otherwise occurring on or with respect to the Mortgaged Premises, and (iv) the inaccuracy or breach of any environmental representation, warranty or covenant by the Mortgagor made herein or in any security agreement or any other instrument or document evidencing or securing any indebtedness, obligations, or liabilities of the Mortgagor owing to the Mortgagee or setting forth terms and conditions applicable thereto or otherwise relating thereto, except for damages arising from the Mortgagee's willful misconduct or gross negligence. This indemnification shall survive the payment and satisfaction of all Secured Indebtedness owing to the Mortgagee and the termination of this Mortgage, and shall remain in force beyond the expiration of any applicable statute of limitations and payment or satisfaction in full of any single claim under this indemnification. This indemnification shall be binding upon the successors and assigns of the Mortgagor and shall inure to the benefit of Mortgagee and its directors, officers, employees, agents, and collateral trustees, and their successors and assigns.

[SIGNATURE PAGE TO FOLLOW]

UNOFFICIAL COPY

IN WITNESS WHEREOF, Mortgagor has caused these presents to be signed and sealed the day and year first above written.

**6250 North California LLC,
an Illinois limited liability company**

By: Faisal Mukhi
Faisal Mukhi, Managing Member

By: _____
Arslan Hanif, Managing Member

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, Mortgagor has caused these presents to be signed and sealed the day and year first above written.

**6250 North California LLC,
an Illinois limited liability company**

By: _____
Faisal Mukhi, Managing Member

By:  _____
Arslan Hanif, Managing Member

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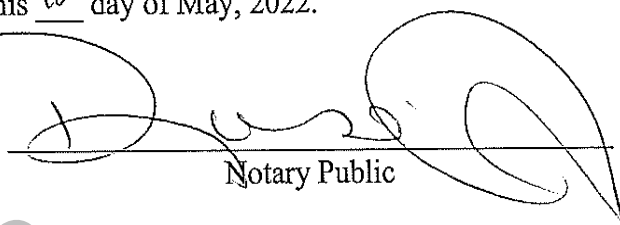
ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

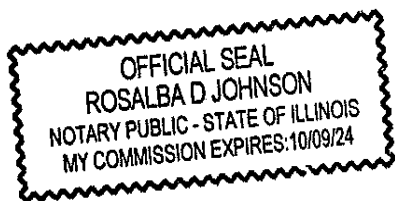
The undersigned, a Notary Public in and for said County in the State aforesaid, does hereby certify that Faisal Mukhi, the Managing Member of 6250 North California, LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she/he signed and delivered the said instrument as her/his own free and voluntary act, and as the free and voluntary act of said limited liability company for the purposes therein set forth.

Given under my hand and notarial seal this 10 day of May, 2022.

(Notary Seal)



Notary Public



Rosalba Johnson

(Type or Print Name)

My commission expires: 10-9-2024

Notary of Cook County Clerk's Office

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ACKNOWLEDGMENT

STATE OF CA)
) SS
 COUNTY OF Orange)

The undersigned, a Notary Public in and for said County in the State aforesaid, does hereby certify that _____, the _____ of _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she/he signed and delivered the said instrument as her/his own free and voluntary act, and as the free and voluntary act of said limited liability company for the purposes therein set forth.

Given under my hand and notarial seal this 19 day of May, 2022.

(Notary Seal)

Teresa D. Lewis
 Notary Public

SEE CALIFORNIA
 ACKNOWLEDGMENT
 DATE 05/10/ INITL TL
2022

Teresa D. Lewis
 (Type or Print Name)

My commission expires: 10/03/2022

Notary Public of Cook County Clerk's Office

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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 Orange

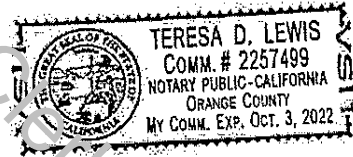
On May 10, 2022 before me, Teresa D. Lewis, Notary Public
(insert name and title of the officer)

personally appeared Aoslan Hanif
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 *Teresa D. Lewis* (Seal)



Property
Orange County Clerk's Office

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SCHEDULE I

LEGAL DESCRIPTION

Property Address 6226-6250 North California Avenue
Chicago, IL 60659

P.I.N. No. 13-01-115-016, 13-01-115-017, 13-01-115-018 AND 13-01-115-019

Property of Cook County Clerk's Office

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SCHEDULE II

PERMITTED EXCEPTIONS

All those certain Schedule B, Part I Exceptions set forth in ALTA Loan 2006 Title Policy No. **4-22-23922-1** issued by **Fidelity National Title Insurance Company** to First Republic Bank in the amount of **\$1,189,500.00**, dated no earlier than the recording of this Mortgage.

Property of Cook County Clerk's Office

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Exhibit "A"
Property Description

Situated in the County of Cook, State of Illinois, to wit:

Lots 2, 3, 4, 5 and 6 in Block 8 in Thomas J. Grady's Sixth Green Briar Addition to North Edgewater, being a subdivision of the Northeast 1/4 of the Northwest 1/4 of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

Property of Cook County Clerk's Office