

Illinois Anti-Predatory
Lending Database
Program

Doc#: 2234228441 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 12/08/2022 03:50 PM Pg: 1 of 31

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: **PIN: 08-28-201-009-0000**

Address:

Street: 565 Landmeier Road

Street line 2:

City: Elk Grove Village

State: IL

ZIP Code: 60007

Lender: North American Savings Bank FSB

Borrower: Starnet Equities LLC

Loan / Mortgage Amount: \$994,000.00

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

Certificate number: 12AF3423-1D21-4A3C-AE3A-8A67DD2881C5

Execution date: 11/22/2022

UNOFFICIAL COPY

Recording requested by and after
 recording return to:
 North American Savings Bank, F.S.B.
 903 E. 104th Street, Suite 400
 Kansas City, MO 64131
 Attention: Commercial Lending

Space above this line reserved for recording information

MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT ("Mortgage") is executed on the 22nd day of November, 2022, by **STARNET EQUITIES LLC**, a California limited liability company ("Grantor"), whose address is 11720 El Camino Road, Suite 250, San Diego, California, in favor of **NORTH AMERICAN SAVINGS BANK, F.S.B.** ("Lender"), with offices at 903 E. 104th Street, Suite 400, Kansas City, Missouri 64131.

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

Recitals

The following recitals are a material part of this instrument:

Grantor is the owner of certain real property located in Cook County, Illinois, legally described in **Exhibit A** attached to this Mortgage (the "Premises").

Grantor has obtained a loan from Lender and to evidence said loan Grantor has executed and delivered to Lender its Promissory Note of even date herewith, in the amount of **Nine Hundred Ninety Four Thousand and No/100 Dollars (\$994,000.00)** (the "Note"). The Note is payable to Lender at the address described above or at such other place as Lender may designate from time to time in writing, with interest as therein provided payable in accordance with the terms of the Note.

Lender has required as a condition of its acceptance of the Note that Grantor secure the Note by this Mortgage.

{756 / 386; 975386. }

UNOFFICIAL COPY

The indebtedness evidenced by the Note is and/or may be further evidenced and secured by other documents and instruments. The Note, this Mortgage and all other documents and instruments now or hereafter evidencing and/or securing the Obligations (defined below) or any of them are sometimes collectively referred to in this Mortgage as the "Loan Documents".

The total indebtedness and liabilities to be secured by this Mortgage amount to the sum of the following:

- (i) the principal amount of the indebtedness evidenced by the Note, including future advances of said principal amount; plus
- (ii) interest on such principal amount as is provided in the Note and/or in the other Loan Documents; plus
- (iii) all other amounts and indebtedness, liabilities, and obligations arising under the Note, this Mortgage or any of the other Loan Documents (including advances to protect the security of and costs of enforcement under the Note, this Mortgage or the other Loan Documents), as the same may be amended, modified or supplemented or the maturity thereof may be extended or renewed, and principal, interest, fees, expenses and charges relating to any of the foregoing, including, without limitation, costs and expenses of collection and enforcement of this Mortgage, attorneys' fees of both inside and outside counsel and environmental assessment or remediation costs; plus
- (iv) any and all indebtedness, obligations and liabilities of any kind of Grantor to Lender, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising.

All such amounts described in clauses (i)-(iv) above and the other nonmonetary obligations of Grantor contained in the Loan Documents are referred to collectively in this Mortgage as the "Obligations".

This Mortgage is intended to, and shall, secure future advances, and the total principal amount of Obligations secured by this Mortgage, excluding accrued interest (whether or not added to principal), costs, fees, charges, and advances by Lender for the protection of the Premises and/or for other purposes authorized under the provisions of this Mortgage, but including such future advances, shall not exceed **Nine Hundred Ninety Four Thousand and No/100 Dollars (\$994,000.00)**.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the further consideration of the uses, purposes and trusts hereinafter set forth, and to secure the punctual payment by Grantor when due, whether at stated maturity, by acceleration or otherwise of the Obligations and the performance and observance of all other covenants, obligations and liabilities of Grantor under the Note, this Mortgage and the other Loan Documents, Grantor has and does hereby grant, bargain, sell, mortgage, warrant, convey, remise, release, assign, transfer, grant a security interest in, set over, deliver and confirm unto Lender and (and, where the nature of any of the following property requires a grant directly to Lender to create a valid and enforceable security interest, unto Lender) and its substitutes, successors and assigns upon the terms and conditions of

UNOFFICIAL COPY

this Mortgage, the real property and other property described in Granting Clauses First through Fourth below. All such real property and other property shall be deemed included in all references to the "Premises" in this Mortgage.

GRANTING CLAUSES

All of the estate, right, title and interest of Grantor in, to and under or derived from the following, whether now owned or hereafter acquired, including all products and proceeds thereof and additions and accessions thereto:

FIRST

Land

All those certain lot(s), piece(s) or parcel(s) of land more particularly described in **Exhibit A**, and all and singular the reversions or remainders in and to said land and the tenements, hereditaments, easements, rights-of-way or use, rights, privileges, royalties and appurtenances to said land, now or hereafter belonging or in any way appertaining thereto, including any such right, title, or interest in, to or under any agreement or right granting, conveying or creating, for the benefit of said land, any easement, right or license in any way affecting other property and in, to or under any streets, ways, alleys, vaults, gores or strips of land adjoining said land or any parcel thereof, or in or to the air space over said land, all rights of ingress and egress by motor vehicles to parking facilities on or with said land, and all claims or demands of Grantor, either at law or in equity, in possession or expectancy of, in or to the same (all of the foregoing hereinafter sometimes collectively called the "Land").

SECOND

Improvements and Fixtures

All buildings, structures, facilities, fixtures and other improvements now or hereafter located on the Land, and all building material, building equipment and fixtures of every kind or nature now or hereafter owned by Grantor and located on the Land or attached to, contained in, or used in any such buildings, structures, facilities or other improvements and all appurtenances and additions thereto and betterments, renewals, substitutions and replacements thereof, owned by Grantor or in which Grantor has or shall acquire an interest (all of the foregoing hereinafter collectively called the "Improvements").

THIRD

Tangible Personal Property

All building materials, fittings, appliances, equipment, machinery and articles of tangible personal property owned by Grantor and affixed to, attached to, placed upon, stored at, or used in any way in connection with the complete and comfortable use, enjoyment, occupancy or operation of the Land and Improvements (all of the foregoing hereinafter collectively called the "Equipment").

UNOFFICIAL COPY

FOURTH Other Personal Property

All accounts, goods, documents, instruments, contract rights, chattel paper and general intangibles related to the Land, the Improvements, and the Equipment, including without limitation interests arising from leases, purchase agreements or other contracts covering real or personal property, tax refunds or claims therefor, warranty or guaranty claims, condemnation awards or proceeds, security interests or other security or collateral, all other personal property of any kind or nature or any right, title or interest therein, all books, records, credit files, tenant lists, computer programs, printouts, software and computer media (such as databases, source and object codes and information therein), together with any equipment and software to create, utilize, maintain or process any such records or data on electronic media, manuals, data, materials and records pertaining to any of the foregoing, and all insurance policies insuring any of the foregoing and all proceeds thereof.

If any of the property described in the Granting Clauses is deemed to be personal property rather than a part of or permanently affixed to the Land or Improvements, this Mortgage shall also constitute a security agreement with respect to such personal property executed by Grantor as debtor in favor of Lender as Secured Party. Upon the occurrence of an Event of Default, Lender may elect (i) to proceed under and have all the rights and remedies of a secured party under Article 9 of the Uniform Commercial Code and any other applicable law, or (ii) to proceed as to both the real property and the personal property described in the Granting Clauses in accordance with Lender's rights and remedies in respect of the real property encumbered by this Mortgage, whereupon at any foreclosure sale conducted pursuant to this Mortgage the real and personal property may be offered together as part of the same sale, with bids to be taken on the whole of the real and personal property rather than separately.

TO HAVE AND TO HOLD THE SAME, together with all the rights, hereditaments and appurtenances in anywise appertaining or belonging thereto, unto Lender and its successors and assigns, for the use and purposes hereinafter set forth; and subject to the following terms, conditions and uses, Grantor covenants and agrees with Lender and its assigns, as follows:

ARTICLE I Representations and Warranties of Grantor

1.01. Title. Grantor represents, warrants, covenants and agrees that it is the lawful owner of the Premises and that it has good right and lawful authority to mortgage, convey, assign and pledge the same as provided herein; that it has not made, done, executed or suffered, and will not make, do, execute or suffer, any act or thing whereby its estate or interest in and title to the Premises shall or may be impaired or changed or encumbered in any manner whatsoever; that it does warrant and will defend the title to the Premises against all claims and demands whatsoever; and that it will do, execute, acknowledge and deliver all and every further act, deed, conveyance, transfer and assurance necessary or proper for the carrying out more effectively of the purpose of this Mortgage, including without limitation the preparation, execution and filing of any documents, such as financing statements and continuation statements, deemed advisable by Lender for maintaining its lien on any property included in the Premises.

UNOFFICIAL COPY

1.02. Lien. The lien created by this Mortgage is a first lien on the Premises, and Grantor will keep the Premises and the rights, privileges and appurtenances thereto free from all lien claims of every kind whether superior, equal, or inferior to the lien of this Mortgage, and if any such lien be filed, Grantor, within twenty (20) days after such filing, shall cause the lien to be discharged by payment, bonding, or otherwise to the satisfaction of Lender. Grantor further agrees to protect and defend the title and possession of the Premises so that this Mortgage shall be and remain a lien thereon until the Obligations are fully paid or if foreclosure sale be had hereunder so that the purchaser at said sale shall acquire good title free and clear of all liens and encumbrances.

1.03. Authority. Grantor hereby represents and warrants to Lender that:

(A) Grantor (i) is duly organized, validly existing and in good standing under the laws of the state of its formation; (ii) has the power and authority to own its properties and to carry on its business now being conducted; and (iii) is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.

(B) The execution, delivery and performance by Grantor of this Mortgage and all other Loan Documents and the borrowing evidenced by the Note: (i) are within the powers of Grantor; (ii) have been duly authorized by all requisite action; and (iii) will not violate any provision of law, any order of any court or other agency of government.

(C) This Mortgage, the Note, and all other Loan Documents constitute legal, valid and binding obligations of Grantor and the other obligors named therein, if any, in accordance with their respective terms.

(D) Neither the execution and delivery of this Mortgage, the Note and the other Loan Documents, nor the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the terms and conditions of this Mortgage, the Note and the other Loan Documents, conflicts with or will result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which Grantor is now a party or by which it is bound.

1.04. Certificates and Permits. Grantor has and will maintain in effect all necessary certificates, licenses, authorizations, registrations, permits and/or approvals necessary for the operation of all or any part of the Premises. All required zoning ordinance, building code, land use, environmental and other similar permits or approvals are in full force and effect and are not subject to any revocation, amendment, release, suspension, or forfeiture as of the date hereof, and the present and contemplated use and/or occupancy of the Premises do not conflict with or violate any of the same, or are not legal non-conforming uses. Grantor, promptly upon request by Lender, shall deliver to Lender copies of all of the same.

1.05. Utilities; Roads; Damage. The Premises are: (A) accessible to and served by all utilities required for the present and contemplated use thereof; (B) contiguous to and served by dedicated public roads which have been completed and accepted by the relevant public authorities, and which provide legal and physical access, ingress and egress to and from the Premises required for the present and contemplated use thereof; and (C) free from material defect or damage caused by fire or other casualty.

UNOFFICIAL COPY

1.06. Litigation and Related Matters. There are no actions, suits or proceedings pending or, to the knowledge of Grantor, threatened against or affecting Grantor or the Premises, at law, in equity, or before any governmental agency or other entity, wherein more than \$10,000.00 is in controversy or which, individually or in the aggregate, have or may have a material adverse effect on Grantor or the Premises, or may cause a material adverse change in the financial condition, conduct of business or normal operations of Grantor. Grantor has no knowledge of any default by it under any law, rule or regulation of any governmental entity that would cause any such change.

1.07 Hazardous Substances. Grantor hereby warrants, represents, covenants and agrees that:

(A) No hazardous or toxic materials, wastes or substances that are defined, determined or identified as such in any federal, state or local laws, rules or regulations (whether now existing or hereafter enacted or promulgated) or any judicial or administrative interpretation of such laws, rules or regulations, including but not limited to any solid, liquid, gaseous or thermal irritant, contaminant or chemical waste, have been or shall be discharged, dispersed, released, stored, treated, generated, disposed of, or allowed to accumulate or escape upon the Premises.

(B) No asbestos or asbestos-containing materials have been installed, used, incorporated into, or disposed of on the Premises.

(C) No polychlorinated biphenyls are located on or in the Premises, whether contained or incorporated in electrical transformers, fluorescent light fixtures or other equipment or otherwise.

(D) No underground storage tanks have been or shall be located on the Premises.

(E) No investigation, administrative proceeding, litigation or other undertaking involving any of the substances described in this Section 1.07 is now pending or threatened by any government department or agency having jurisdiction over the Premises with respect to said substances, or by any other person.

(F) The Premises and the operations thereon are and will be in compliance with all applicable state, federal and local laws, ordinances, and regulations concerning toxic and/or hazardous substances. Grantor has received no notice from any individual, governmental department or agency, administrative tribunal or court claiming any violation of any of the foregoing laws, ordinances or regulations or demanding payment of damages or contributions for costs of cleaning up any of said substances, and Grantor shall, immediately upon receipt of any such oral or written notice inform Lender thereof and furnish to Lender a copy of any such written notice.

(G) Grantor has undertaken all appropriate inquiry into the previous ownership and uses of the Premises consistent with good commercial practice in an effort to minimize Grantor's liability under applicable environmental and public health and related laws and regulations.

1.08 Handicapped Access.

UNOFFICIAL COPY

(A) Grantor agrees that the Premises shall at all times comply to the extent applicable with the requirements of the Americans with Disabilities Act of 1990, all state and local laws and ordinances related to handicapped access and all rules, regulations, and orders issued pursuant thereto (including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities) (collectively, as the same may be amended, modified or supplemented from time to time, the "Access Laws").

(B) Notwithstanding any provisions set forth herein or in any other document regarding Lender's approval of alterations of the Premises, Grantor shall not alter the Premises in any manner which would materially increase Grantor's responsibilities for compliance with the applicable Access Laws without the prior written approval of Lender. The foregoing shall apply to tenant improvements constructed by Grantor or by any of its tenants. Lender may condition any such approval upon receipt from Grantor of a certificate of Access Law compliance from an architect, engineer, or other person acceptable to Lender or other reasonably satisfactory evidence of compliance.

(C) Grantor agrees to give prompt notice to Lender of the receipt by Grantor of any complaints related to violations of any Access Laws received from governmental authorities or involving a threat of litigation and of the commencement of any proceedings or investigations which relate to compliance with applicable Access Laws.

(D) Grantor shall protect, defend, indemnify and save harmless Lender from and against all liabilities, obligations, claims, demands, damages, penalties, causes of action, losses, fines, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses), imposed upon or incurred by or asserted against Lender by reason of any failure of the Premises to comply with any Access Laws.

ARTICLE II Covenants of Grantor

2.01. General Covenants.

(A) Payment of Obligations. Grantor will punctually pay when due the Obligations, and will perform and observe all of its obligations under this Mortgage. If any portion of the indebtedness intended to be secured hereby cannot be lawfully secured by the lien of this Mortgage on the Premises, it is agreed that all payments made on said indebtedness shall be applied first to discharge that portion of said indebtedness.

(B) Compliance with Other Requirements. Grantor will perform and observe all of the obligations of Grantor and any other obligor as set forth in the Note, this Mortgage, and all other Loan Documents.

(C) Further Assurances. Grantor will, upon Lender's request, (i) promptly correct any defect, error or omission which may be discovered in the execution, acknowledgment or recordation of this Mortgage, the Note or any other Loan Document, and (ii) promptly do, execute, acknowledge and deliver any and all such further acts, deeds, conveyances, mortgages, deeds of trust, assignments, estoppel certificates, notices of assignment, transfers, certificates, assurances and other instruments as Lender may reasonably require from time to time in order to effectuate the

UNOFFICIAL COPY

purpose of this Mortgage, to subject to the lien and security interest hereby created any of Grantor's properties, rights or interests, to perfect and maintain said lien and security interest, and to convey, grant, assign, transfer and confirm unto Lender the rights granted to Lender hereunder or under any other instrument executed in connection with this Mortgage.

(D) Filing and Recording. Grantor will, upon Lender's request, promptly record and rerecord, file and refile and register and reregister this Mortgage and every other instrument in addition to or supplemental thereto that shall be required by law in order to perfect and maintain the validity, effectiveness and priority of this Mortgage and the lien and security interest intended to be created hereby, or proceeds of the Premises, in such manner and places and within such times as may be necessary to accomplish such purposes and to preserve and protect the rights and remedies of Lender. Grantor will furnish to Lender evidence satisfactory to Lender of every such recording, filing or registration. Grantor authorizes Lender to file financing statements, continuations, and amendments thereto describing the personal property granted as collateral security herein and containing any other information required by the Uniform Commercial Code in such form and substance as Lender, in its sole discretion, may determine.

(E) Protection of Lien; Defense of Action. If the lien, security interest, validity or priority of this Mortgage, or if title or any of the rights of Grantor or Lender in or to the Premises, shall be endangered or questioned, or shall be attacked directly or indirectly, or if any action or proceeding shall be instituted against Grantor or Lender with respect thereto, or if any defect shall be claimed to exist therein, Grantor will promptly notify Lender thereof and will diligently challenge or attempt to cure such claimed defects and will take all necessary and proper steps for the defense of such action or proceeding, including the employment of counsel, the prosecution or defense of litigation and, subject to Lender's approval, the compromise, release or discharge of any and all adverse claims. Lender (whether or not named a party to such actions or proceedings) is hereby authorized and empowered (but shall not be obligated) to take such additional steps as it may deem necessary or proper for protection of its interests in connection with the defense of any such action or proceeding or the protection of the lien, security interest, validity or priority of this Mortgage or of such title or rights, including the employment of counsel of Lender's choice, the prosecution or defense of litigation, the compromise, release or discharge of such adverse claims, the purchase of any tax title and the removal of prior liens and security interests. Grantor shall, on demand, reimburse Lender for all reasonable expenses (including attorneys' fees, court costs, and other legal expenses) incurred by Lender in connection with the foregoing matters.

(F) Maintenance. Grantor will cause the Premises and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition (reasonable wear and tear excepted), will abstain from and not permit the commission of waste in or about the Premises, and will comply with, and cause its tenant to comply with, all laws and regulations of any governmental authority with reference to the Premises and the manner of using or operating the same, and with all restrictive covenants, if any, affecting the title to the Premises, or any part thereof. Grantor also will from time to time make, or cause to be made, all necessary and proper repairs, renewals, replacements, additions and betterments to the Premises, so that the value and efficient use thereof shall be fully preserved and maintained and all of the above laws and regulations shall be complied with. Grantor will not otherwise make, or cause to be made, any material modifications to the Premises without the written consent of Lender. Grantor agrees not to remove from the Premises any of the fixtures or equipment included in the Premises unless the

UNOFFICIAL COPY

same are immediately replaced with like property of at least equal value. Lender shall be entitled to enter the Premises at reasonable times and upon reasonable notice to Grantor to inspect the Premises and to otherwise ensure that Grantor is complying with its covenants set forth herein.

(G) Real Estate Taxes, Other Governmental Charges, Liens and Utility Charges. Grantor shall, before any penalty attaches thereto, pay and discharge or cause to be paid and discharged all taxes, assessments, utility charges and other governmental charges imposed upon or against the Premises and will not suffer to exist any mechanic's, statutory or other lien on the Premises unless expressly consented to by Lender in writing.

(H) Insurance. Grantor shall procure and maintain, or cause to be procured and maintained, continuously in effect with respect to the Premises policies of insurance against such risks and in such amounts as are required by Lender, and with deductible amounts as approved by Lender. Without limiting the generality of the foregoing provision, Grantor shall specifically maintain, or cause to be maintained, the following insurance coverages:

(i) Direct damage insurance covering at least the risk of loss from Fire, Extended Coverage Perils and Vandalism and Malicious Mischief, on a replacement cost basis in an amount equal to the full insurable value thereof, but in any event not less than the total amount of the Obligations ("full insurable value" shall include the actual replacement cost of all buildings and improvements and the contents therein, without deduction for depreciation, architectural, engineering, legal and administrative fees). The policies required by this paragraph shall be either subject to no co insurance clause or contain an agreed amount endorsement, and may include a provision for a deductible amount acceptable to Lender.

(ii) General liability insurance covering injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition of the Premises or any part thereof, in the maximum amounts required by any lease affecting any part of the Premises, but in no event less than \$1,000,000.00 for death of or personal injury to any one person, \$2,000,000.00 for all personal injuries and deaths resulting from any one accident, and \$1,000,000.00 for property damage in any one accident, provided that the requirements of this paragraph with respect to the amount of insurance may be satisfied by an excess coverage policy.

(iii) Business interruption or loss of rental income insurance in an amount adequate to pay the installments of interest and principal due on the Note and to cover escrow payments required hereunder for a period of not less than twelve (12) months after the date of damage to or destruction of the Premises.

(iv) Insurance against such other casualties and contingencies, including flood insurance, as Lender may from time to time require, all in such forms and amounts as may be reasonably satisfactory to Lender.

All insurance provided for herein shall be effective under a valid and enforceable policy or policies issued by an insurer approved by Lender. All policies of insurance shall be written in the names of Grantor, Grantor's tenant, and Lender as their respective interests may appear. These policies shall provide that the proceeds of such insurance shall be payable to Lender pursuant to a

UNOFFICIAL COPY

mortgagee clause in form and substance satisfactory to Lender to be attached to each policy, which clause shall also contain a provision that the insurer shall not cancel, refuse to renew or materially modify the policy without giving written notice to Lender at least thirty (30) days before the cancellation, non-renewal or modification becomes effective. Grantor shall deposit with Lender policies evidencing all such insurance and a certificate or certificates of the respective insurers stating that such insurance is in force. At least seven (7) days prior to the date the premiums on each policy shall become due and payable, Lender shall be furnished with proof reasonably satisfactory to it of Grantor's tenant's payment of the same. Before the expiration of any policy of insurance herein required, Grantor shall furnish Lender with evidence satisfactory to Lender that the policy has been renewed or replaced by another policy conforming to the provisions of this Section or that there is no necessity therefor under the terms hereof.

(I) Advances. If Grantor fails to comply with any of the terms, covenants and conditions herein with respect to the procuring of insurance, the payment of taxes, assessments and other charges, the keeping of the Premises in repair, or any other term, covenant or condition herein contained, Lender may, but shall not be obligated to, make advances to perform the same and, where necessary, enter the Premises for the purpose of performing any such term, covenant or condition. Grantor agrees to repay all sums so advanced upon demand, with interest at the Default Rate provided for in the Note. All sums so advanced, with interest, shall be secured hereby and, at Lender's election, shall have priority over the rest of the Obligations, but no such advance shall be deemed to relieve Grantor from any default hereunder.

UNLESS YOU PROVIDE EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY YOUR AGREEMENT WITH US, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTERESTS IN YOUR COLLATERAL. THIS INSURANCE MAY, BUT NEED NOT, PROTECT YOUR INTERESTS. THE COVERAGE THAT WE PURCHASE MAY NOT PAY ANY CLAIM THAT YOU MAKE OR ANY CLAIM THAT IS MADE AGAINST YOU IN CONNECTION WITH THE COLLATERAL. YOU MAY LATER CANCEL ANY INSURANCE PURCHASED BY US, BUT ONLY AFTER PROVIDING EVIDENCE THAT YOU HAVE OBTAINED INSURANCE AS REQUIRED BY OUR AGREEMENT. IF WE PURCHASE INSURANCE FOR THE COLLATERAL, YOU WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING THE INSURANCE PREMIUM, INTEREST AND ANY OTHER CHARGES WE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO YOUR TOTAL OUTSTANDING BALANCE OR OBLIGATION. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE YOU MAY BE ABLE TO OBTAIN ON YOUR OWN.

(J) Use of Premises. Grantor shall comply with all restrictions affecting the Premises and with all laws, ordinances, acts, rules, regulations and orders of any legislative, executive, administrative or judicial body, commission or officer (whether federal, state or local) which may now or hereafter exercise any power of regulation or supervision over Grantor or the Premises, whether the same concerns the erection, repair, manner of use or structural alteration of buildings or improvements or any other matter.

(K) Sale, Encumbrance and Leases. Any of the following acts or occurrences shall constitute an Event of Default under this Mortgage and all other Loan Documents unless Lender's

UNOFFICIAL COPY

separate prior written consent (which consent may be granted or withheld by Lender with or without cause and in Lender's sole and absolute discretion) is obtained for each such act or occurrence:

(i) If Grantor sells, conveys, transfers or further encumbers the Premises or any part thereof or any interest therein (whether legal, equitable, or beneficial), whether voluntarily, by gift, bequest, operation of law, merger, or in any other manner.

(ii) If Grantor, in a single transaction or a series of transactions, sells, transfers or redeems, or permits the sale, transfer or redemption of, any ownership interest in Grantor which would individually or cumulatively result in a change in management or control of Grantor over the Premises.

(iii) If Grantor sells, transfers or assigns any of its profits or losses, or if any Guarantor that is a member, partner or shareholder of Grantor sells, transfers or assigns its rights to any profits, losses or distributions of or from Grantor.

(iv) If The Niki Group, LLC or David Trakman shall either directly or indirectly fail to maintain management control over the Premises.

Upon or at any time after any such act or occurrence without such written consent of Lender, Lender may accelerate the indebtedness secured hereby and/or pursue any or all other rights and remedies provided herein and in the other Loan Documents in such order and manner as Lender may elect from time to time without notice to Grantor or any other person.

2.02. Zoning; Title Matters. Grantor will not, without Lender's express prior written consent, (A) initiate or support any zoning reclassification of the Premises or seek any variance under existing zoning ordinances applicable thereto; (B) impose any restrictive covenants or any other encumbrance upon the Premises, execute or file any subdivision plat affecting the Premises or consent to the annexation of the Premises to any municipality; or (C) permit or suffer the Premises to be used by the public or any person in such manner as might make possible a claim of adverse usage or possession or of any implied dedication or easement by prescription.

2.03. Escrows. Grantor shall deposit with Lender, upon Lender's request, a sum sufficient to provide for payment of the annual charges for real estate taxes, including special assessments and any other charges against the Premises by governmental or quasi-governmental bodies (collectively, "Taxes") and annual insurance premiums on all policies required in Section 2.01(11) hereof (collectively, "Premiums") affecting the Premises, both as estimated by Lender, and thereafter Grantor shall deposit with Lender, together with and in addition to the monthly payments of principal and interest provided for in the Note, one-twelfth (1/12th) of the annual amount of said Taxes and one-twelfth (1/12th) of the annual amount of said Premiums, both as estimated by Lender, to be held by Lender and used to pay said Taxes and Premiums when the same fall due. In addition to the monthly escrow payments required above, Lender may require that Grantor deposit with Lender from time to time, funds in an amount sufficient to maintain with Lender an additional escrow balance in an amount not to exceed one-sixth (1/6th) of the annual Taxes plus one-sixth (1/6th) of the annual Premiums, both as estimated by Lender, and Grantor agrees to deposit such funds with Lender within five (5) days after Lender's request. If at any time Lender estimates that the funds held for such purposes are insufficient, Grantor shall upon demand pay such additional

UNOFFICIAL COPY

sums as Lender shall determine to be necessary to cover the next required payments for both Taxes and Premiums. Upon and during the continuance of an Event of Default hereunder, Lender may, at its option, apply the amounts described in this Section to the Obligations in such manner as Lender may elect, and Grantor shall immediately reimburse Lender for the amounts so applied. No interest shall accrue to Grantor upon any sums deposited with Lender pursuant to this Section. Grantor grants Lender a lien on and security interest in any account established with Lender, and all proceeds thereof. Lender agrees to waive the foregoing escrow requirements during the term of the Note, so long as (i) Grantor's tenant is obligated to pay all Taxes and Premiums under its lease with Grantor; (ii) Grantor promptly provides to Lender evidence satisfactory to Lender, and in such form and at such times as Lender may request, that all Taxes and Premiums have been timely paid when due; and (iii) no Event of Default has occurred hereunder or under any other Loan Document.

2.04. Damage and Destruction. In the event of any damage to or loss or destruction of the Premises, Lender, at its option, may adjust or compromise any loss under any insurance policies on the Premises, may collect and receive the proceeds thereof, and any sums received by Lender by reason of such loss or damage may, subject to the rights of Grantor's tenant under any current lease of the Premises then in effect, be retained by Lender and applied wholly or in part toward the payment of the Obligations (without relieving Grantor of its obligation to make the regular payments called for in the Note until the indebtedness secured thereby is fully paid), or at Lender's sole option such sums may be paid over wholly or in part to Grantor, on such terms and conditions as Lender may impose, to be used to repair, replace or rebuild the Premises or any part thereof or for any other purpose or object satisfactory to Lender, without affecting the lien of this Mortgage for the full amount secured hereby. Lender shall not be responsible for any failure to collect the proceeds due under the terms of any insurance policy. If the Premises or any part thereof is damaged by fire or any other cause, Grantor shall give immediate written notice of the same to Lender.

2.05. Condemnation.

(A) Grantor, immediately upon obtaining knowledge of any pending or threatened institution of any proceedings for the condemnation of the Premises or the exercise of any right of eminent domain over the Premises, shall notify Lender of the same. Lender may participate in any such proceedings, and Grantor shall execute and deliver to Lender all documents reasonably requested by Lender to permit such participation. Grantor shall, at its own expense, diligently prosecute any such proceedings, deliver to Lender copies of all papers served in connection therewith and consult and cooperate with Lender, its attorneys and agents, in the conduct and defense of such proceedings. No settlement of any such proceeding shall be made by Grantor without Lender's consent.

(B) If all or any part of the Premises are damaged or taken, either temporarily or permanently, through condemnation or eminent domain (which terms as used herein shall include any damage or taking by any governmental authority, any transfer by private sale in lieu thereof, and the alteration of the grade of any street adjoining or affecting the Premises), the entire Obligations shall, at Lender's option, become immediately due and payable. Subject to the rights of Grantor's tenant under any current lease of the Premises then in effect, Lender shall be entitled to all compensation, awards and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own name or in Grantor's name if Grantor fails

UNOFFICIAL COPY

to enter a timely appearance on its own behalf, any action or proceeding relating to any condemnation and to settle or compromise any claim in connection therewith. All compensation, awards, damages, claims, rights of action and proceeds relating thereto and all rights to the same are hereby assigned by Grantor to Lender, who after deducting therefrom all of its related expenses, including attorneys' fees and expenses and court costs, may release any monies so received by it without affecting the lien of this Mortgage, or may apply the same in such manner as Lender shall determine to the reduction of the sums secured hereby, and the remaining balance of such monies, if any, shall be paid to Grantor. Grantor agrees to execute such further assignments of any related compensation, awards, damages, claims, rights of action and proceeds as Lender may request. Lender shall not be liable for any failure to exercise the rights granted to it by this Section.

2.06. No Consent. Nothing in the Note, this Mortgage or any other Loan Document shall be deemed or construed in any way as constituting the consent or request by Lender, express or implied, to any contractor, subcontractor, laborer, mechanic or materialman or an inducement for the performance of any labor or the furnishing of any material for improvement or repair of the Premises. Grantor further agrees that Lender does not stand in any fiduciary relationship to Grantor.

2.07. Taxes and Other Charges.

(A) Grantor will promptly pay all charges, filing, registration and recording fees, levies and taxes (other than income, franchise and doing business taxes) imposed upon Lender or the holders of the Obligations by reason of execution of this Mortgage or ownership of this Mortgage or any mortgage supplemental hereto, any security instrument with respect to the Premises or part thereof, or any instrument of further assurance.

(B) If any governmental or quasi-governmental authority having jurisdiction over Grantor, Lender or the Premises hereafter enacts a law deducting from the value of the Premises for the purpose of taxation any lien or security interest thereon, or changing in any way the laws for the taxation of mortgages or other liens or debts secured thereby, or the manner of collection of such taxes, so as to affect this Mortgage, any other Loan Document, the Obligations and the holders thereof or Lender, Grantor shall, on demand, pay to Lender or such holders, or reimburse said parties for payment of, all taxes, assessments, charges or liens for which said parties are or may be liable, provided that if any such payment or reimbursement shall be unlawful or would render the Obligations wholly or partly usurious under applicable law, Lender may, at its option, declare the Obligations immediately due and payable or require Grantor to pay or reimburse Lender for payment of the lawful and nonusurious portion thereof.

2.08. Certificates. Grantor, at any time and from time to time within thirty (30) days after Lender's request, shall furnish to Lender a written statement, duly acknowledged, certifying to Lender and/or Lender's designee as to: (A) the outstanding amount of the Obligations; (B) the terms of payment and maturity date of the Obligations; (C) the date to which interest has been paid; (D) whether, to the best knowledge of Grantor, Grantor or Lender is in default hereunder and whether any offsets or defenses exist against the Obligations, and if any such matters are alleged to exist, a detailed description thereof.

UNOFFICIAL COPY

2.09. Financial Statements and Records. Grantor shall furnish to Lender or Lender's designee, upon request from time to time during the term of the Note, and in any event within sixty (60) days after the end of each fiscal year of Grantor during said term, current annual statements itemizing the income and expenses of the Premises, including an itemized rent roll, together with a complete statement of Grantor's assets and liabilities and its profit and loss statement and annual federal income tax returns. Said statements shall be prepared by the chief financial officer of Grantor, and shall be prepared in accordance with tax or financial accounting principles consistently applied throughout the periods covered therein, except as may be otherwise specified therein. Lender shall have access to Grantor's books and records at reasonable times and places throughout the term of the Note. Grantor shall also cause any and all guarantors of the Obligations to provide to Lender upon Lender's reasonable request from time to time, and not less than annually, their current personal financial statements in a form acceptable to Lender and copies of their annual federal tax returns. If one company, business, or entity represents 10% or more of Grantor's or any Guarantor's income or assets, the financial statements and annual federal income tax return of the company, business, or entity shall be attached to the affected statements.

2.10. Protection Concerning Hazardous Substances.

(A) Grantor shall furnish to Lender within five (5) days after Grantor's receipt thereof copies of any notices from any individual, governmental department or agency, administrative tribunal or court claiming any violation of any laws, ordinances or regulations concerning hazardous substances alleged to affect the Premises or to be located thereon, or demanding payment of damages relating thereto or contributions for costs of removing or cleaning up any such substances. Grantor hereby does, and its successors and assigns shall, so long as any portion of the indebtedness secured hereby remains unpaid, indemnify Lender and its officers, directors, shareholders, affiliates and participants and hold all such parties harmless from and against any and all claims, demands, judgments, damages, actions, causes of action, injuries, administrative orders, consent decrees and orders, liabilities, costs, expenses and penalties of any kind whatsoever, including claims arising from or relating to injury to persons, property, business operations or natural resources, or to loss of life, in connection with the Premises or activities thereon of Grantor, its predecessors in interest, and/or third parties who may be or may have been present on the Premises with or without a contractual right to enter thereon, and arising from the actual, alleged or threatened disposal, storage, discharge, release, treatment, generation or escape of pollutants or other toxic or hazardous substances upon or otherwise affecting the Premises or from failure to detect, prevent, abate or remedy any prior condition or activity relating to such substances upon or otherwise affecting the Premises.

(B) At any time after the occurrence of any Event of Default hereunder and during the continuance thereof, Grantor shall provide Lender, as soon as possible after Lender's request therefor, a report from a recognized toxic waste management or environmental testing organization acceptable to Lender, certifying that the Premises are free of toxic or hazardous substances as defined under applicable federal and state laws (or describing any such substances which may be found). At Lender's option, upon reasonable notice given to Grantor, Lender's agents may enter the Premises at all reasonable times to perform any investigations, inspections or tests necessary to establish whether toxic or hazardous substances are located on or otherwise affect the Premises. All of the above-described certifications, investigations, inspections and tests shall be performed at Grantor's cost, and if the costs thereof are not paid by Grantor immediately upon Lender's demand,

UNOFFICIAL COPY

Lender may advance such costs and add them to the principal balance of the Note. Grantor's failure to pay such costs upon demand shall also constitute an Event of Default hereunder.

2.11 Fixture Filing. From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing under the Uniform Commercial Code with respect to the Improvements and for this purpose the name and address of the debtor is the name and address of the Grantor as set forth in this Mortgage and the name and address of the secured party is the name and address of the Lender as set forth in this Mortgage. The Premises includes goods which are or may become so affixed to real property as to become fixtures.

ARTICLE III

Assignment of Rents and Leases

3.01. Assignment. As additional security for the Obligations, Grantor hereby grants, bargains, sells, transfers, assigns and sets over to Lender all right, title and interest of Grantor in and to:

(A) All rents, income, profits, royalties, revenue, rights, deposits (including but not limited to security deposits), proceeds (including but not limited to proceeds payable under any insurance policy relating to the Premises and/or any bond or security relating to construction or reconstruction of the Premises or improvements thereon) and any and all cash collateral derived from the Premises or the use and occupancy thereof, and all proceeds and distributions therefrom accruing to Grantor (collectively the "Rents"), all rights to collect and receive the Rents, whether before or after any Event of Default or foreclosure hereunder and during any period of redemption applicable hereto; and

(B) All existing and future leases, subleases, agreements, contracts, bonds, and other documents demising the Premises or any part thereof or evidencing and/or securing the right to receive the Rents or any part thereof, and all modifications, extensions or renewals of any of the foregoing (collectively, the "Leases"), all rights to enforce the Leases, and the benefits of any and all guaranties of and/or security for the Leases; and

(C) All accounts, contract rights, general intangibles and other personal property or interests in property arising from or relating to any of the foregoing; and

(D) All products and proceeds of all of the foregoing.

All sums collected or received by Lender under the foregoing assignments shall be applied to reduce the Obligations in accordance with the terms and provisions of the Loan Documents. Nothing contained in this Mortgage shall be construed to bind Lender to the performance of any provisions of any Lease or to impose any liability or obligation upon Lender in connection with the Premises, whether under any Lease or otherwise (including any liability under a covenant of quiet enjoyment contained in any Lease or under applicable law in the event that any tenant shall have been joined as a defendant in any action to foreclose this Mortgage and shall have been foreclosed of all right, title and interest and all equity of redemption in the Premises), except that Lender shall be accountable for any funds actually received by Lender pursuant to such assignments.

UNOFFICIAL COPY

3.02. Present Assignment; License in Absence of Default. The foregoing assignments of Rents and Leases are absolute present assignments, and shall be deemed effective to grant full possession of the Premises and full rights to collect the Rents and enforce the Leases without further action or notice, whether or not any Event of Default may exist hereunder from time to time. Provided, however, that Lender hereby grants a license (the "License") to Grantor to collect the Rents as they accrue under the Leases, to retain the Rents as trustee for Lender, and to apply the sums so collected first to pay real estate taxes and assessments assessed against the Premises, then to pay insurance premiums and other usual, customary and reasonable expenses actually incurred by Grantor in maintaining and operating the Premises, and then to pay accrued interest, principal and other sums payable to Lender under the terms and provisions of the Loan Documents.

The License shall remain in effect only so long as no uncured Event of Default exists under this Mortgage or any other Loan Document. Upon the occurrence of any Event of Default hereunder or under any other Loan Document, or at any time thereafter while any Event of Default may exist, Lender may terminate the License without notice or demand and may collect the Rents directly from the persons liable therefor, enforce the Leases against persons liable thereunder, and/or pursue any or all of Lender's other rights and remedies under this Mortgage and all other Loan Documents in such order and manner as Lender may elect from time to time in its sole and absolute discretion.

Whether or not Grantor receives notice of termination of the License, Grantor shall immediately pay and deliver to Lender all Rents in Grantor's possession upon the occurrence of any Event of Default and/or received by Grantor during the existence of any uncured Event of Default, without notice or demand.

3.03. Payments After Default. Upon the occurrence and during the continuance of any Event of Default hereunder, Grantor shall promptly pay to Lender, in addition to any Rents Grantor may thereafter receive from third parties, all rent prepayments and security or other deposits paid to Grantor pursuant to any Lease assigned hereunder, and all charges for services or facilities or for escalations in such charges previously paid to Grantor pursuant to any such Lease.

If Grantor fails or is not required to surrender possession of the Premises or the portion thereof occupied by Grantor during the existence of an Event of Default, Grantor shall pay monthly in advance to Lender or to any receiver appointed to collect the Rents the fair and reasonable rental value of the Premises or portion thereof remaining in the possession of Grantor. Upon default in any such payment, Grantor shall vacate and surrender such possession to Lender or such receiver, and Grantor may be evicted by summary or other available proceedings for failure to so vacate and surrender possession.

3.04. Further Assignments. Grantor shall, as and when requested to do so from time to time by Lender, execute, acknowledge and deliver to Lender one or more general or specific assignments of Grantor's interest as lessor or otherwise under any Lease now or hereafter affecting the Premises, in form and substance acceptable to Lender in its sole and absolute discretion. Grantor shall, on demand, pay to Lender or reimburse Lender for the payment of any costs or expenses incurred in preparation or recording of any such assignment. All rights and remedies of Lender under this Mortgage and under any separate assignment(s) concurrently or hereafter executed by Grantor in favor of Lender affecting rents arising from or leases relating to the

UNOFFICIAL COPY

Premises shall be cumulative, and in the event of any inconsistency in applicable provisions, Lender may enforce this Mortgage and any such assignment(s) in such manner as may maximize Lender's right to collect the Rents and/or enforce the Leases.

ARTICLE IV

Additional Advances; Expenses; Indemnity; Default Interest

4.01. Additional Advances and Disbursements. Grantor agrees that, if Grantor shall default in any of its obligations hereunder to pay any amount or to perform any action, including the obligation to pay taxes and to procure, maintain and pay premiums on the insurance policies referred to herein, Lender shall have the right, but not the obligation, in Grantor's name or in its own name, and without notice to Grantor, to advance all or any part of such amounts or to perform any or all such actions, and, for such purpose, Grantor expressly grants to Lender, in addition and without prejudice to any other rights and remedies hereunder, the right to enter upon and take possession of the Premises to such extent and as often as Lender may reasonably deem necessary or desirable to prevent or remedy any such default. No such advance or performance shall be deemed to have cured such default by Grantor or any Event of Default hereunder with respect thereto. All sums so advanced and all expenses incurred by Lender in connection with such advances or actions, and all other sums advanced or expenses incurred by Lender hereunder or under applicable law shall be demand obligations owing by Grantor to Lender and shall be part of the Obligations and shall be secured by this Mortgage. Lender, upon making any such advance, shall be subrogated to all of the rights of the person receiving such advance.

4.02. Other Expenses.

(A) Grantor will, on demand, pay or reimburse Lender for the payment of all appraisal fees, recording and filing fees, taxes, abstract fees, title insurance premiums and fees, Uniform Commercial Code search fees, escrow fees, attorneys' and accountants' fees and disbursements and all other costs and expenses of every character incurred by Grantor or Lender for the preparation, documentation and closing of the transactions contemplated under the Note, this Mortgage and the other Loan Documents, or otherwise attributable or chargeable to Grantor as owner of the Premises.

(B) Grantor will, on demand, pay or reimburse Lender for the payment of any costs or expenses (including attorneys' fees and disbursements) incurred or expended in connection with (i) any default or Event of Default by Grantor under the Note, this Mortgage or any other Loan Document, or (ii) the exercise or enforcement by or on behalf of Lender of any of its rights or remedies or Grantor's obligations under the Note, this Mortgage or any other Loan Document, including the enforcement, compromise or settlement of this Mortgage or the Obligations or the defense or assertion of the rights and claims of Lender hereunder in respect thereof, by litigation or otherwise.

4.03. Indemnity.

(A) Grantor agrees to indemnify and hold Lender harmless from and against any and all losses, liabilities, suits, obligations, fines, damages, judgments, penalties, claims, charges, costs and expenses (including reasonable attorneys' fees and disbursements) which may be imposed on, incurred or paid by or asserted against Lender by reason or on account of, or in connection with, (i)

UNOFFICIAL COPY

any default or Event of Default by Grantor hereunder, (ii) Lender's exercise of any of its rights and remedies, or the performance of any of its duties hereunder, (iii) the construction, reconstruction or alteration of the Improvements, (iv) any negligence or willful misconduct of Grantor or any of its respective agents, contractors, subcontractors, servants, employees, licensees or invitees, (v) any accident, injury, death or damage to any person or property occurring in, on or about the Premises or any street, drive, sidewalk, curb or passageway adjacent thereto, or (vi) any other transaction or claim arising out of this Mortgage or in any way connected with the Premises to the extent permitted by law, including unrecorded interests in or conflicting claims (including those in bankruptcy) to the Premises, defects in or the unenforceability of or failure to perfect and record this Mortgage. Any amount payable to Lender under this Section shall be deemed a demand obligation and if not paid it shall bear interest at the rate specified in Section 4.04 hereof.

(B) Grantor's obligations under this Section shall not be affected by the absence or unavailability of insurance covering the same or by the failure or refusal by any insurance carrier to perform any obligation on its part under any policy of insurance. If any claim, action or proceeding that is subject to the indemnity set forth in this Section is made or brought against Lender, Grantor shall, upon notice thereof by Lender, resist or defend against the same, if necessary in the name of Lender, by attorneys for Grantor's insurance carrier (if the same is covered by insurance) or otherwise by attorneys approved by Lender. Notwithstanding the foregoing, Lender, in its discretion, may engage its own attorneys to resist or defend such claims, actions or proceedings, or assist therein, and Grantor shall, on demand, pay or reimburse Lender for the payment of the reasonable fees and expenses of such attorneys.

4.04. Default Interest. All sums advanced and all expenses incurred by Lender which are to be reimbursed by Grantor under this Mortgage shall bear interest at the highest rate (including any default rate) specified in the Note. Such interest shall be part of the Obligations and shall be secured by this Mortgage.

ARTICLE V Defaults and Remedies

5.01. Events of Default. The term "Event of Default," as used in this Mortgage, shall mean the occurrence of any of the following events:

(A) If any payment of principal, interest or any other sum due under the Note, under this Mortgage, under any other Loan Document, or under any additional or replacement note or Loan Document (including any mandatory prepayment of such a note or obligation) is not paid when due, whether at the due date or maturity thereof, at a date fixed for prepayment thereof, by acceleration, or otherwise.

(B) If Grantor fails to perform and/or comply with any other covenant, agreement, term or provision of the Note, this Mortgage, or any other Loan Document.

(C) If Grantor shall abandon the Premises or cease to do business or terminate its business for any reason whatsoever.

UNOFFICIAL COPY

(D) If the Premises or any part thereof shall be taken, attached or sequestered on execution or other process of law in any action against Grantor.

(E) The filing by or against Grantor or any guarantor of all or part of the Obligations ("Guarantor") of a voluntary petition in bankruptcy or the adjudication of Grantor or any Guarantor as a bankrupt or insolvent, or the filing by or against Grantor or any Guarantor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or Grantor or any Guarantor seeking or consenting to or acquiescing in the appointment of any trustee, receiver or liquidator of itself or of all or any substantial part of the property conveyed hereby, or of any or all of the rents, revenues, issues, earnings, profits or income thereof, or the making of any general assignment for the benefit of creditors, or any admission in writing of its inability to pay its debts generally as they become due.

(F) The death of any Guarantor or the dissolution or termination of Grantor's existence; provided, however, the death or dissolution of any Guarantor shall not be deemed an Event of Default if a substitute guarantor of the Obligations, acceptable to Lender in Lender's sole discretion is provided to Lender within ninety (90) days after the date of such death or dissolution.

(G) Commencement of foreclosure or other proceedings for enforcement of remedies by the holder of any lien or encumbrance affecting the Premises or any part thereof, whether or not said lien or encumbrance was originally consented to by Lender. (This provision shall not imply any such consent.)

(H) Any other occurrence specified in the Note as constituting an "Event of Default", or any other occurrence in this Mortgage or any other Loan Document as permitting Lender to accelerate the maturity of all or part of the Obligations.

5.02. Remedies. Upon and during the continuance of any one or more Events of Default, Lender may (but shall not be obligated to), in addition to any rights or remedies available to it under the Note, this Mortgage or any other Loan Document, take such action, personally or by its agents or attorneys, with or without entry, and without notice, demand, presentment or protest (each and all of which are hereby waived), as it deems necessary or advisable to protect and enforce its rights and remedies against Grantor and in and to the Premises, including the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine in its sole discretion, without impairing or otherwise affecting its other rights or remedies:

(A) declare the entire balance of the Obligations (including the entire principal balance thereof, all accrued and unpaid interest and any premium thereon and all other such sums secured hereby) to be immediately due and payable, and upon any such declaration the entire unpaid balance of the Obligations shall become and be immediately due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by Grantor, anything in the Note, this Mortgage or any other Loan Document to the contrary notwithstanding;

(B) commence an action to foreclose this Mortgage in accordance with the Illinois Mortgage Foreclosure Act, Ill. Rev. Stat. Ch. 110, para. 15-1101 (1987), 735 ILCS 5/15-1101

UNOFFICIAL COPY

(1992), et seq. (as may be amended) (the "Act") and, to the extent permitted by applicable law, Lender shall have statutory power of sale in addition to all other rights and remedies hereunder;

(C) institute a proceeding or proceedings for the partial foreclosure of this Mortgage under any applicable provision of law for the portion of the Obligations then due and payable, subject to the lien of this Mortgage continuing unimpaired and without loss of priority to secure the balance of the Obligations not then due and payable;

(D) to the extent permitted by applicable law, sell the Premises, and all estate, right, title interest, claim and demand of Grantor therein, and all right of redemption thereof, at one or more sales, as an entirety or in parcels, with such elements of real and/or personal property (and, to the extent permitted by applicable law, Lender may elect to deem all of the Premises to be real property for the purposes thereof), and at such time and place and upon such terms as it may deem expedient, or as may be required by applicable law, and in the event of a sale, by foreclosure or otherwise, of less than all of the Premises, this Mortgage shall continue as a lien and security interest on the remaining portion of the Premises;

(E) institute an action, suit or proceeding in equity for the specific performance of any of the provisions contained in the Note, this Mortgage or any other Loan Document;

(F) sue and recover a judgment on the Obligations as the same become due and payable, or on account of any default or defaults by Grantor under the Note, this Mortgage or any other Loan Document;

(G) apply for the appointment of a receiver, custodian, trustee, liquidator or conservator of the Premises, to be invested with the fullest powers permitted under applicable law, which Lender is hereby authorized and empowered to obtain as a matter of right and without regard to the adequacy or inadequacy of the security for the Obligations or the solvency or insolvency of Grantor or any other person liable for the payment of the Obligations. Grantor hereby waives any necessity or requirement of proving that Grantor is insolvent and/or that Lender's security for the Obligations is inadequate as a condition of any such appointment. Grantor authorizes Lender to obtain any such appointment on an ex parte basis, and consents thereto in all respects;

(H) to the extent permitted by law, enter upon the Premises, and exclude Grantor and its agents and servants wholly therefrom, without liability for trespass, damages or otherwise, and take possession of all books, records and accounts relating thereto, and Grantor agrees to surrender possession of the Premises and of such books, records and accounts to Lender on demand upon and during continuance of any Event of Default; and having and holding the same, Lender may use, operate, manage, preserve, control and otherwise deal therewith and conduct the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or receivers, without interference from Grantor; and upon each such entry and from time to time thereafter, may, at the expense of Grantor and the Premises, without interference from Grantor and as it may deem advisable, (i) either by purchase, repair or construction, maintain and restore the Premises, (ii) insure or reinsure the same, (iii) make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments and improvements thereto and thereon, as may be customary in the industry or as it may deem advisable, (iv) complete the construction of the Improvements and, in the course of such completion, make such changes in the contemplated or completed

UNOFFICIAL COPY

Improvements as it may deem advisable, (v) in every such case in connection with the foregoing, have the right to exercise all rights and powers of Grantor with respect to the Premises, in Grantor's name or otherwise, including the right to make, cancel, enforce or modify leases and subleases, and to obtain and evict tenants and subtenants on such terms as it may deem advisable;

(I) with or without entering upon or taking possession of the Premises, collect and receive all earnings, revenues, rents, issues, profits, income and cash collateral derived from the Premises, and after deducting therefrom all costs and expenses of every character incurred by Lender in collecting the same and in using, operating, managing, preserving and controlling the Premises, and otherwise in exercising Lender's rights under subsection (H) of this Section, including all amounts necessary to pay taxes, insurance premiums and other charges in connection with the Premises, as well as reasonable compensation for the services of Lender and its attorneys, agents and employees, apply the remainder as provided in Section 5.04 below;

(J) release any portion of the Premises for such consideration as Lender may reasonably require, without, as to the remainder of the Premises, in any way impairing or affecting the lien or priority of this Mortgage, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Obligations shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienor;

(K) take all actions permitted under the Uniform Commercial Code of the state in which the Premises are located;

(L) take any other action, or pursue any other right or remedy, as Lender may have under applicable law, and Grantor does hereby grant the same to Lender. Grantor acknowledges that the Mortgaged Property does not constitute agricultural real estate as defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act.

If Lender exercises any of the rights or remedies set forth herein, Lender shall not be deemed to have entered upon or taken possession of the Premises except upon the exercise of its option to do so, evidenced by its demand and overt act for such purposes, nor shall Lender be deemed a mortgagee in possession by reason of such entry or taking possession. Lender will not be liable to account for any action taken pursuant to any such exercise other than for rents actually received, nor be liable for any loss sustained by Grantor resulting from any failure to let the Premises, nor from any other act or omission of Lender, except to the extent such loss is caused by the willful misconduct of Lender. Grantor hereby consents to, ratifies and confirms the exercise by Lender of said rights and remedies and appoints Lender as Grantor's attorney-in-fact, which appointment shall be deemed to be coupled with an interest and is irrevocable for such purposes.

5.03. Expenses. In any proceeding, judicial or otherwise, to foreclose this Mortgage or enforce any other remedy of Lender under the Note, this Mortgage or any other Loan Document, there shall be allowed and included as an addition to and a part of the Obligations in the decree for sale or other judgment or decree all reasonable expenditures and expenses, including attorneys' fees and court costs, which may be paid or incurred in connection with the exercise by Lender of any of its rights and remedies and the same shall be secured by this Mortgage.

UNOFFICIAL COPY

5.04. Application of Proceeds. The purchase money, proceeds or avails of any sale, together with any other sums which may be held by Lender hereunder, whether under the provisions of this Article V or otherwise, shall, except as herein expressly provided to the contrary, be applied as follows:

FIRST: To the payment of the costs and expenses of any such sale, compensation to Lender, its agents and counsel, and all other liabilities and advances made or incurred by Lender hereunder, together with interest thereon as provided herein, and all taxes, assessments and other charges, except any taxes, assessments or other charges subject to which the Premises shall have been sold.

SECOND: Ratably, to the payment in full of the Obligations (including principal, interest, and other sums owed in such order as Lender may elect).

THIRD: To the extent permitted by applicable law, to be set aside by Lender as adequate security in its judgment for the payment of sums which would have been paid by application under clauses First and Second above to Lender, arising out of an obligation or liability with respect to which Grantor has agreed to indemnify it, but which sums are not yet due and payable or liquidated;

FOURTH: The surplus, if any, to whomsoever may be lawfully entitled thereto.

5.05. Additional Remedial Provisions.

(A) No right or remedy herein conferred upon or reserved to Lender is intended to be exclusive of any other right or remedy, and each and every such right or remedy shall be cumulative and continuing, shall be in addition to every other right or remedy given under the Note, this Mortgage or any other Loan Document or now or hereafter existing at law or in equity, and may be exercised from time to time and as often as may be deemed expedient by Lender.

(B) No delay or omission by Lender to exercise any right or remedy hereunder upon an Event of Default shall impair such exercise, or be construed to be a waiver of any such Event of Default or an acquiescence therein.

(C) The failure, refusal or waiver by Lender of its right to assert any right or remedy hereunder upon any Event of Default or other occurrence shall not be construed as waiving such right or remedy upon any other or subsequent Event of Default or other occurrence.

(D) Lender shall not have any obligation to pursue any rights or remedies it may have under any other agreement, the Note or any other Loan Document prior to pursuing its rights or remedies under the Note, this Mortgage or any other Loan Document.

(E) No recovery of any judgment by Lender and no levy of an execution upon the Premises or any other property of Grantor shall affect, in any manner or to any extent, the lien and security interest of this Mortgage upon the Premises, or any liens, rights, powers and remedies shall continue unimpaired as before.

UNOFFICIAL COPY

(F) Lender may resort to any security given by this Mortgage or any other security now given or hereafter existing to secure the Obligations, in whole or in part, in such portions and in such order as it may, in its discretion, elect, and no such election shall be construed as a waiver of any of the liens, rights or benefits granted hereunder.

(G) Nothing in the Note, this Mortgage or any other Loan Document shall be deemed a waiver or a cure of such Event of Default, and acceptance of any payment less than any amount then due shall be deemed an acceptance on account only.

(H) In the event that Lender shall have proceeded to enforce any right or remedy hereunder by foreclosure, sale, entry or otherwise, and such proceeding shall be discontinued, abandoned, defectively performed or completed or determined adversely to Lender for any reason, then Grantor and Lender shall be restored to their former positions and rights hereunder with respect to the Premises, subject to the lien hereof.

5.06. Waiver of Rights and Defenses. To the full extent Grantor may do so, Grantor agrees with Lender as follows:

(A) Grantor hereby waives and will not at any time insist on, plead, claim or take the benefit or advantage of any statute or rule of law now or hereafter in force providing for any appraisal, valuation, stay, extension, moratorium or redemption, or of any statute of limitations, and Grantor, for itself and its successors and assigns, and for any and all persons ever claiming an interest in the Premises, hereby waives and releases all rights of redemption, valuation, appraisal, notice of intention to mature or declare due the whole of the Obligations, and all rights to a marshaling of the assets of Grantor, including the Premises, or to a sale in inverse order of alienation, in the event of foreclosure of the liens and security interests created hereunder.

(B) Grantor hereby waives and shall not have or assert the matters set forth in subsection (A) of this Section, or to any other matters whatsoever to defeat, reduce or affect any of the rights or remedies of Lender hereunder, including sale of the Premises for the collection of the Obligations and the payment of the Obligations out of the proceeds of sale of the Premises in preference to any other person.

(C) If any statute or rule of law referred to in this Section and now in force, of which Grantor or any of its successors or assigns and such other persons claiming any interest in the Premises might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such statute or rule of law shall not thereafter be deemed to preclude the application of this Section.

(D) Grantor shall not be relieved of its obligation to pay the Obligations at the time and in the manner provided in the Note, this Mortgage or any other Loan Document, nor shall the lien, security interest or priority of this Mortgage or any other Loan Document be impaired by any of the following actions, non-actions or indulgences by Lender:

(i) any failure or refusal by Lender to comply with any request by Grantor, or to consent to any action by Grantor, or to take any action to foreclose this Mortgage or

UNOFFICIAL COPY

otherwise enforce any of the provisions of this Mortgage or any other Loan Document;

(ii) any release, regardless of consideration, of the whole or any part of the Premises or any other security for the Obligations, or any person liable for payment of the Obligations;

(iii) any waiver by Lender of compliance by Grantor with any provision of the Note, this Mortgage or any other Loan Document, or consent by Lender to the performance by Grantor of any action which would otherwise be prohibited hereunder or thereunder, or to the failure by Grantor to take any action which would otherwise be required hereunder or thereunder; and

(iv) any agreement or stipulation, with or without Grantor's consent, between Lender and any subsequent owner or owners of the Premises or any other security for the Obligations, renewing, extending or modifying the time of payment or the terms of the Note, this Mortgage, or any other Loan Document (including a modification of any interest rate), and in any such event Grantor shall continue to be obligated to pay the Obligations at the time and in the manner provided in the Note, this Mortgage and the other Loan Documents as so renewed, extended or modified, unless expressly released and discharged by Lender.

ARTICLE VI

Release

6.01. Release. Grantor shall be permitted to obtain a release of the Premises from the lien and effect of this Mortgage ("Release"), provided the following conditions are met:

(A) Grantor has provided Lender with a written request for the Release;

(B) There is no Event of Default under the Note, this Mortgage or any other instruments securing repayment of the Note;

(C) Grantor pays to Lender the allocated loan amount of the Premises as set forth in Exhibit A of the Note, together with (i) any accrued and unpaid interest on the Note, (ii) the applicable Prepayment Premium amount set out in the Note; and (iii) all of Lender's out-of-pocket costs and expenses, including reasonable legal fees of Lender's counsel;

(D) Grantor enters into amendments to the Loan Documents if requested by Lender to evidence the Release, and Grantor shall pay all preparation and recording costs thereof; and

6.02. Documentation. In the event described in Section 6.01, Lender shall, at the request and expense of Grantor, promptly execute and deliver to Grantor releases, statements or assignments (as appropriate) and/or such other documents as Grantor may reasonably request to evidence the termination of Lender's rights hereunder.

UNOFFICIAL COPY

ARTICLE VII Additional Provisions

7.01. Provisions as to Payments, Advances.

(A) All payments of the Obligations shall be made in such lawful money of the United States of America as shall be legal tender for payment of all debts, public and private, at the time of payment, shall be made in the manner expressly designated therefor, or if no such designation is made, at such place as Lender may designate from time to time.

(B) If any of the Obligations cannot lawfully be secured by this Mortgage, or if any part of the Premises cannot lawfully be subject to the lien and security interest hereof, to the full extent of said Obligations, then all payments made thereon shall be applied first in discharge of that portion thereof which is not secured by this Mortgage.

(C) To the extent that any of the Obligations are used to pay indebtedness secured by any other outstanding lien, security interest or charge against the Premises or to pay in whole or in part the purchase price therefor, Lender shall be subrogated to any and all rights, security interests and liens held by any owner or holder of the same, whether or not the same are released. Grantor agrees that, in consideration of such payment by Lender, Grantor hereby waives and releases all demands, defenses and causes of action for offsets and payments with respect to the same.

(D) Any payment made under this Mortgage by any person at any time liable for the payment of the Obligations or by any subsequent owner of the Premises, or by any other person whose interest in the Premises might be prejudiced in the event of a failure to make such payment, or by any partner, joint venturer, stockholder, officer or director thereof, shall be deemed, as between Lender and all such persons, to have been made on behalf of all such persons.

7.02. Severability. If, in any jurisdiction, all or any portion of any provision of the Note, this Mortgage or any other Loan Document shall be held to be invalid, illegal or unenforceable in any respect, then, it shall immediately be deemed to have been severed therefrom or herefrom and such invalidity, illegality or unenforceability shall not affect any other provision thereof or hereof, and such provision shall be limited and construed in such jurisdiction as if such invalid, illegal or unenforceable provision or portion thereof were not contained therein or herein.

7.03. Right to Deal. In the event that ownership of the Premises becomes vested in a person other than Grantor, Lender may, without notice to Grantor, deal with such successor or successors in interest with reference to this Mortgage or the Obligations in the same manner as with Grantor, without in any way vitiating or discharging Grantor's liability hereunder or for the payment of the Obligations or being deemed to have consented to such vesting.

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

7.05. Appointment of Lender. Grantor hereby appoints Lender its attorney-in-fact, which appointment is irrevocable and shall be deemed to be coupled with an interest, to execute, acknowledge, deliver and file or record for and in the name of Grantor any of the documents or

UNOFFICIAL COPY

instruments referred to in any Section of this Mortgage that permits Lender to take any action on behalf of Grantor.

7.06. Sole Discretion of Lender. Whenever Lender's judgment, consent or approval is required hereunder for any matter in which Lender shall have an option or election hereunder, such judgment, consent or approval shall be exercised in the sole discretion of Lender, unless otherwise stated herein to be reasonably given or exercised.

7.07. Effect of Covenants and Agreements; Conflict Between Provisions. All of Grantor's covenants and agreements hereunder shall run with the land. In the event of any conflict between a provision of the Note and a provision of this Mortgage or any other Loan Document, the provision that provides the fullest security and remedies and the highest financial yield to Lender shall prevail.

7.08. Matters to Be in Writing. This Mortgage cannot be altered, modified, terminated or discharged except in a writing signed by the party against whom enforcement of such alteration, amendment, modification, termination or discharge is sought. No waiver, release or other forbearance by Lender will be effective against Lender unless it is in a writing signed by Lender, and then only to the extent expressly stated.

7.09. Construction of Provisions. The following rules of construction shall be applicable for all purposes of this Mortgage and all documents or instruments supplemental hereto, unless the context otherwise requires:

(A) Words of masculine, feminine or neuter gender shall mean and include the correlative words of the other genders, and words importing the singular number shall mean and include the plural number, and vice versa.

(B) The terms "person" and "party" shall mean any individual, sole proprietorship, partnership, limited liability company, limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity or government (whether federal, state, county, city, municipal or otherwise, including, without limitation, an instrumentality, division, agency, body or department thereof).

(C) All Article, Section and Exhibit captions herein are used for convenience and reference only and in no way define, limit or describe the scope or intent of, or in any way affect, this Mortgage.

(D) No inference in favor of, or against, any party shall be drawn from the fact that such party has drafted any portion hereof.

(E) All obligations of Grantor hereunder shall be performed and satisfied by or on behalf of Grantor at Grantor's sole cost and expense.

7.10. Successors and Assigns. The provisions hereof shall be binding upon Grantor and the heirs, devisees, representatives, successors and assigns of Grantor, including successors in interest of Grantor in and to the Premises, and shall inure to the benefit of Lender and the holders of

UNOFFICIAL COPY

the Obligations and their respective heirs, successors, legal representatives, substitutes and assigns. Where two or more persons or entities have executed this Mortgage, the obligations of such persons or entities shall be joint and several.

7.11 Attornment of Lessees.

(A) Each lease of the Land or Improvements or any part thereof entered into after the recording of this Mortgage shall be deemed to have been entered into with knowledge of the terms and provisions hereof and shall be deemed to have included, to the extent not provided by applicable law, the agreement of the tenant thereunder to attorn to and become the tenant of Lender or such other person as may succeed to the interest of Grantor in the Premises as the result of any foreclosure sale or other remedial action under this Mortgage or any conveyance in lieu of such foreclosure, without any change in the terms or other provisions of the applicable lease, and to execute and deliver any ratification of lease or other document or instrument requested by such successor in interest of Grantor confirming the tenant's attornment and the continuation of the tenancy created under such lease. Such attornment shall become effective automatically at the option of such successor in interest of Grantor upon notice to the affected tenant, whether or not any such confirmatory document is executed.

(B) Nothing in this Section 7.11 shall bind said successor in interest of Grantor with respect to any payment of rent or other sums due under such lease by the tenant prior to such attornment for more than one month in advance, except for prepayments in the nature of security for the performance by said tenant of its obligations under said lease, nor shall this Section 7.11 impose any liability upon such successor in interest of Grantor for any obligations of Grantor under such lease or any acts or omissions of Grantor arising or occurring prior to such attornment.

7.12. Lender's Right to Subordinate. Lender may, at its election in its sole and absolute discretion, subordinate the lien of this Mortgage and any or all of Lender's rights, titles or interests hereunder to any lien, leasehold interest, easement, plat, covenant, restriction, dedication, encumbrance or other matter affecting the Premises or any part thereof by recording a written declaration of such subordination in the office of the Recorder of Deeds for the county in which the Premises are located. If Lender forecloses hereunder after recording any such declaration, the title received by the purchaser at such sale shall be subject to the matters specified in such declaration, but such declaration shall not otherwise affect the validity or terms of this Mortgage or any other Loan Document or the priority of any lien or security interest created hereunder or under any other Loan Document.

7.13. Lost Note. Grantor will, in the event the original Note shall be mutilated, destroyed, lost, or stolen, deliver to Lender, in substitution therefor, a new promissory note containing the same terms and conditions as the Note.


[Signature Page Follows]

UNOFFICIAL COPY

IN WITNESS WHEREOF, Grantor has caused this document to be executed as of the day and year first above written.

STARNET EQUITIES LLC, a
California limited liability company

By: The Niki Group, LLC, a
California limited liability company, its
Manager

By: 

Genevieve Hedrick, Manager

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)
)ss
COUNTY OF _____)

*See attached
affidavit
11/21/2022*

On this ____ day of November, 2022, before me, _____, a Notary Public, personally appeared Genevieve Hedrick, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and by her signature on the instrument, the person, or the entity upon which such person 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. *Rp.c*

WITNESS my hand and official seal.

Notary Public

Prepared By:
Sandra S. Watts, Esq.
Rouse Frets White Goss Gentile Rhodes, P.C.
4510 Belleview, Suite 300
Kansas City, MO 64111

UNOFFICIAL COPY

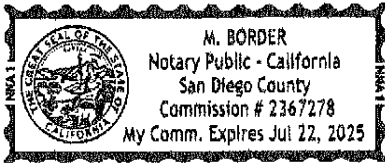
CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California
 County of San Diego
 On November 21, 2022 before me, M. Border, Notary Public
Date Here Insert Name and Title of the Officer
 personally appeared Benevieve Hedrick
Name(s) of Signer(s)

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 [Handwritten Signature]
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Notes starnet equities LLC

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

UNOFFICIAL COPY

EXHIBIT A

LOT 1 IN CENTEX, LANDMEIER AND TONNE SUBDIVISION, BEING A SUBDIVISION IN SECTION 28, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

EXCEPT THAT PART CONVEYED BY SPECIAL WARRANTY DEED RECORDED MAY 3, 1993 AS DOCUMENT 93324862, AND FURTHER DESCRIBED AS FOLLOWS:

THE NORTHERLY 4 FEET OF LOT 1 (MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF SAID LOT 1) AND THAT PART BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 1 WITH A LINE 4 FEET SOUTHERLY OF AND PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 1; THENCE NORTHWESTERLY ALONG SAID PARALLEL LINE, A DISTANCE OF 5 FEET; THENCE SOUTHEASTERLY TO A POINT ON SAID EAST LINE THAT IS 5 FEET SOUTH OF THE POINT OF BEGINNING; THENCE NORTH ALONG SAID EAST LINE TO THE POINT OF BEGINNING, IN CENTEX LANDMEIER AND TONNE SUBDIVISION, BEING A SUBDIVISION IN SECTION 28, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 19, 1970 AS DOCUMENT NUMBER 21322603 IN COOK COUNTY, ILLINOIS.